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By: **Delegates Shewell, Aumann, Bartlett, Cluster, Cryor, Dwyer, Eckardt,  
Edwards, Elmore, Frank, Glassman, Impallaria, Jennings, Krebs,  
Mayer, McComas, McConkey, Shank, Stocksdale, and Stull**

Introduced and read first time: January 19, 2006

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Condemnation Proceedings - Valuation of Property**

3 FOR the purpose of establishing that damages awarded for the taking of property  
4 used for a business may include certain damages for the loss of goodwill under  
5 certain circumstances; including certain costs in calculating diminution of value  
6 for certain property; altering the payment for relocation costs in a condemnation  
7 proceeding by eliminating certain monetary limitations; making stylistic  
8 changes; altering a certain definition; defining a certain term; and generally  
9 relating to the valuation of property in a condemnation proceeding.

10 BY repealing and reenacting, without amendments,  
11 Article - Real Property  
12 Section 12-104(a) and 12-105(c)  
13 Annotated Code of Maryland  
14 (2003 Replacement Volume and 2005 Supplement)

15 BY adding to  
16 Article - Real Property  
17 Section 12-104(h)  
18 Annotated Code of Maryland  
19 (2003 Replacement Volume and 2005 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article - Real Property  
22 Section 12-105(a) and (b) and 12-205(a)  
23 Annotated Code of Maryland  
24 (2003 Replacement Volume and 2005 Supplement)

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

1 **Article - Real Property**

2 12-104.

3 (a) The damages to be awarded for the taking of land is its fair market value.

4 (H) (1) IN THIS SUBSECTION, "GOODWILL" MEANS BENEFITS THAT ACCRUE  
5 TO A BUSINESS AS A RESULT OF ITS LOCATION, REPUTATION FOR DEPENDABILITY,  
6 SKILL, OR QUALITY, AND ANY OTHER CIRCUMSTANCES RESULTING IN PROBABLE  
7 RETENTION OF OLD OR ACQUISITION OF NEW PATRONAGE.8 (2) THE DAMAGES TO BE AWARDED FOR THE TAKING WHERE LAND, OR  
9 ANY PART OF IT, IS USED FOR A BUSINESS SHALL INCLUDE THE LOSS OF GOODWILL  
10 IF THE OWNER OF THE BUSINESS PROVES THAT:

11 (I) THE LOSS:

12 1. IS CAUSED BY THE TAKING OF THE PROPERTY OR INJURY  
13 TO THE REMAINDER; AND14 2. MAY NOT REASONABLY BE PREVENTED BY RELOCATING  
15 THE BUSINESS OR BY TAKING STEPS AND ADOPTING PROCEDURES THAT A  
16 REASONABLY PRUDENT PERSON WOULD TAKE AND ADOPT IN PRESERVING  
17 GOODWILL; AND18 (II) COMPENSATION FOR THE LOSS WILL NOT BE INCLUDED IN  
19 RELOCATION PAYMENTS UNDER SUBTITLE 2 OF THIS TITLE OR DUPLICATED IN ANY  
20 OTHER COMPENSATION AWARDED TO THE OWNER.

21 12-105.

22 (a) In this section, the phrase "the effective date of legislative authority for the  
23 acquisition of the property," means, with respect to a condemnor vested with  
24 continuing power of condemnation, the EARLIER OF THE DATE OF THE FIRST PUBLIC  
25 ANNOUNCEMENT OF A PUBLIC PROJECT INVOLVING THE PROPERTY OR THE date of  
26 specific administrative determination to acquire the property.27 (b) (1) The fair market value of property in a condemnation proceeding is  
28 the price as of the valuation date for the highest and best use of the property which a  
29 vendor, willing but not obligated to sell, would accept for the property, and which a  
30 purchaser, willing but not obligated to buy, would pay, excluding any increment in  
31 value proximately caused by the public project for which the property condemned is  
32 needed.33 (2) (I) [In addition, fair] FAIR market value includes any amount by  
34 which the price reflects a diminution in value occurring between the effective date of  
35 legislative authority for the acquisition of the property and the date of actual taking  
36 if the trier of facts finds that the diminution in value was BEYOND THE REASONABLE  
37 CONTROL OF THE PROPERTY OWNER AND WAS proximately caused by:

