## 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

## A BILL ENTITLED

1 AN ACT concerning

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## **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:

2	<b>UNOFFICIAL COPY OF HOUSE BILL 187</b>
1	Article - Real Property
2	12-104.
3	(a) The damages to be awarded for the taking of land is its fair market value.
6	(H) (1) IN THIS SUBSECTION, "GOODWILL" MEANS BENEFITS THAT ACCRUE TO A BUSINESS AS A RESULT OF ITS LOCATION, REPUTATION FOR DEPENDABILITY, SKILL, OR QUALITY, AND ANY OTHER CIRCUMSTANCES RESULTING IN PROBABLE RETENTION OF OLD OR ACQUISITION OF NEW PATRONAGE.
	(2) THE DAMAGES TO BE AWARDED FOR THE TAKING WHERE LAND, OR ANY PART OF IT, IS USED FOR A BUSINESS SHALL INCLUDE THE LOSS OF GOODWILL ) IF THE OWNER OF THE BUSINESS PROVES THAT:
11	(I) THE LOSS:
12 13	1. IS CAUSED BY THE TAKING OF THE PROPERTY OR INJURY TO THE REMAINDER; AND
16	2. MAY NOT REASONABLY BE PREVENTED BY RELOCATING THE BUSINESS OR BY TAKING STEPS AND ADOPTING PROCEDURES THAT A REASONABLY PRUDENT PERSON WOULD TAKE AND ADOPT IN PRESERVING GOODWILL; AND
	(II) COMPENSATION FOR THE LOSS WILL NOT BE INCLUDED IN RELOCATION PAYMENTS UNDER SUBTITLE 2 OF THIS TITLE OR DUPLICATED IN ANY OTHER COMPENSATION AWARDED TO THE OWNER.
2	12-105.
24 25	<ul> <li>(a) In this section, the phrase "the effective date of legislative authority for the</li> <li>acquisition of the property," means, with respect to a condemnor vested with</li> <li>continuing power of condemnation, the EARLIER OF THE DATE OF THE FIRST PUBLIC</li> <li>ANNOUNCEMENT OF A PUBLIC PROJECT INVOLVING THE PROPERTY OR THE date of</li> <li>specific administrative determination to acquire the property.</li> </ul>
29 30 31	(b) (1) The fair market value of property in a condemnation proceeding is the price as of the valuation date for the highest and best use of the property which a vendor, willing but not obligated to sell, would accept for the property, and which a purchaser, willing but not obligated to buy, would pay, excluding any increment in value proximately caused by the public project for which the property condemned is 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:

## **UNOFFICIAL COPY OF HOUSE BILL 187**

1 1. [the] TH 2 condemned is needed[, or by]; OR

[the] THE public project for which the property

2. [announcements] ANNOUNCEMENTS or acts of the
plaintiff or its officials concerning the public project[, and was beyond the reasonable
control of the property owner].

6 (II) DIMINUTION IN VALUE INCLUDES LOSS OF RENTAL INCOME, 7 PAYMENT OF PROPERTY TAXES, MORTGAGE INTEREST, INSURANCE, AND OTHER 8 COSTS ASSOCIATED WITH MAINTAINING THE PROPERTY.

9 (c) The defendant property owner may elect to present as evidence in a 10 condemnation proceeding, the assessed value of the property, as determined by the 11 Department of Assessments and Taxation, if the assessed value is greater than the 12 appraised value placed on the property by the condemning authority.

13 12-205.

(a) Whenever a program or project undertaken by a displacing agency will
result in the displacement of any person, the displacing agency shall make a payment
to the displaced person, on proper application as approved by the displacing agency
for:

18 (1) Actual reasonable expenses in moving himself, his family, business,19 farm operation, or other personal property;

20 (2) Actual direct loss of tangible personal property as a result of moving

21 or discontinuing a business or farm operation[, but not exceeding an amount equal to

22 the reasonable expenses that would have been required to relocate the personal

23 property, as determined by the agency];

24 (3) Actual reasonable expenses in searching for a replacement business 25 or farm; and

26 (4) Actual reasonable expenses necessary to reestablish a displaced 27 farm, nonprofit organization, or small business at its new site as determined by the 28 displacing agency[, but not to exceed \$10,000].

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 30 October 1, 2006.

3