
By: **Delegates Hogan, Bartlett, Cluster, Elliott, Glassman, Haddaway,
Jennings, Mayer, McComas, McConkey, Miller, Stull, and Weir**

Introduced and read first time: February 9, 2006

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Condemnation Proceedings - Compensation for Business**
3 **Owners**

4 FOR the purpose of requiring certain governmental units to make certain findings
5 before condemning and transferring private property to a private party for
6 economic development purposes; requiring the governmental units to make a
7 certain written record of their findings; establishing that damages awarded for
8 the taking of property used for a business or farm operation shall include certain
9 damages for the loss of net operating income for a certain period of time; altering
10 the payment for relocation costs in a condemnation proceeding by adding certain
11 payments for substitute tangible personal property under certain circumstances
12 and the reasonable cost of moving a business or farm operation under certain
13 circumstances; requiring the Governor's Office of Business Advocacy and Small
14 Business Assistance to provide assistance in identifying loans available for
15 businesses acquired by condemnation; requiring the Office to review the
16 statutory limits on relocation assistance and update limits to reflect
17 present-day dollar values; requiring the Office to report to the General
18 Assembly by a certain date; defining certain terms; and generally relating to
19 compensation for business owners in condemnation proceedings.

20 BY adding to
21 Article - Real Property
22 Section 12-102.1 and 12-104(h)
23 Annotated Code of Maryland
24 (2003 Replacement Volume and 2005 Supplement)

25 BY repealing and reenacting, without amendments,
26 Article - Real Property
27 Section 12-201(a), (c), (f), and (g)
28 Annotated Code of Maryland
29 (2003 Replacement Volume and 2005 Supplement)

30 BY repealing and reenacting, with amendments,

1 Article - Real Property
2 Section 12-205(a)
3 Annotated Code of Maryland
4 (2003 Replacement Volume and 2005 Supplement)

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

7 **Article - Real Property**

8 12-102.1.

9 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
10 INDICATED.

11 (2) "BUSINESS" HAS THE MEANING STATED IN § 12-201 OF THIS TITLE.

12 (3) "FARM OPERATION" HAS THE MEANING STATED IN § 12-201 OF THIS
13 TITLE.

14 (4) "GOVERNMENTAL UNIT" MEANS THE STATE, AN AGENCY,
15 AUTHORITY, BOARD, COMMISSION, COUNCIL, OFFICE, PUBLIC OR QUASI-PUBLIC
16 CORPORATION, OR OTHER UNIT OR INSTRUMENTALITY OF THE STATE, COUNTY,
17 POLITICAL SUBDIVISION, OR MUNICIPAL CORPORATION.

18 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A GOVERNMENTAL
19 UNIT MAY NOT CONDEMN PRIVATE PROPERTY IF THE PROPERTY WILL BE SOLD,
20 LEASED, TRANSFERRED, OR OTHERWISE CONVEYED TO OR FOR THE BENEFIT OF A
21 PRIVATE PARTY FOR PURPOSES OF ECONOMIC DEVELOPMENT UNLESS THE
22 GOVERNMENTAL UNIT FINDS THAT:

23 (1) THE PROPERTY IS:

24 (I) PART OF A COMPREHENSIVE DEVELOPMENT PLAN THAT HAS
25 SUBSTANTIAL AND DIRECT PUBLIC USES AND BENEFITS;

26 (II) NECESSARY TO CARRY OUT THE COMPREHENSIVE
27 DEVELOPMENT PLAN; AND

28 (III) NOT BEING CONDEMNED SOLELY OR PRIMARILY TO BENEFIT A
29 PRIVATE PARTY;

30 (2) (I) THE COMPREHENSIVE DEVELOPMENT PLAN COULD NOT BE
31 DEVELOPED BY PRIVATE DEVELOPERS; AND

32 (II) CONDEMNATION IS NECESSARY TO ACCOMPLISH THE
33 COMPREHENSIVE DEVELOPMENT PLAN; AND

34 (3) WITH RELATION TO A BUSINESS OR FARM OPERATION THAT WILL BE
35 AFFECTED BY THE COMPREHENSIVE DEVELOPMENT PLAN:

1 (I) THE EFFECT OF CONDEMNATION ON A BUSINESS OR FARM
2 OPERATION AND WHETHER THE COMPREHENSIVE DEVELOPMENT PLAN COULD BE
3 RESTRUCTURED TO AVOID THE CONDEMNATION OF THE BUSINESS OR FARM
4 OPERATION HAVE BEEN CONSIDERED; AND

5 (II) THE DISPLACED OWNER OR TENANT OF A BUSINESS OR FARM
6 OPERATION HAS BEEN GIVEN A REASONABLE OPPORTUNITY TO BE INCLUDED IN
7 THE COMPREHENSIVE DEVELOPMENT PLAN.

8 (C) THE GOVERNMENTAL UNIT SHALL MAKE A WRITTEN RECORD OF ITS
9 FINDINGS UNDER SUBSECTION (B) OF THIS SECTION.

10 12-104.

11 (H) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
12 MEANINGS INDICATED.

13 (II) "BUSINESS" HAS THE MEANING STATED IN § 12-201 OF THIS
14 TITLE.

15 (III) "FARM OPERATION" HAS THE MEANING STATED IN § 12-201 OF
16 THIS TITLE.

17 (2) THE DAMAGES TO BE AWARDED FOR THE TAKING UNDER THIS
18 SUBSECTION WHERE A BUSINESS OR FARM OPERATION IS RELOCATED SHALL
19 INCLUDE, FOR A PERIOD NOT TO EXCEED 3 YEARS FOLLOWING THE DATE OF THE
20 TAKING, COMPENSATION FOR THE PRESENT VALUE OF REASONABLY ANTICIPATED
21 REDUCTIONS IN NET OPERATING INCOME THAT ARE CAUSED BY THE TAKING OF THE
22 PROPERTY AND RELOCATION OF THE BUSINESS OR FARM OPERATION.

23 12-201.

24 (a) In this subtitle the following words have the meanings indicated unless
25 otherwise apparent from context.

26 (c) "Business" means any lawful activity, except a farm operation, conducted
27 primarily:

28 (1) For the purchase, sale, lease, and rental of personal property and of
29 real property, and for the manufacture, processing, or marketing of products,
30 commodities, or any other personal property;

31 (2) For the sale of services to the public; or

32 (3) By a nonprofit organization.

33 (f) "Displacing agency" means any public or private agency or person carrying
34 out:

35 (1) A program or project with federal financial assistance;

1 (2) A public works program or project with State financial assistance; or

2 (3) Acquisition by eminent domain or by negotiation.

3 (g) "Farm operation" means any activity conducted solely or primarily for the
4 production of one or more agricultural products or commodities, including timber for
5 sale or home use, and customarily producing these products or commodities in
6 sufficient quantity to be capable of contributing materially to the operator's support.
7 12-205.

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

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

14 (2) Actual direct loss of tangible personal property as a result of moving
15 or discontinuing a business or farm operation, but not exceeding an amount equal to
16 the reasonable expenses that would have been required to relocate the personal
17 property, as determined by the agency;

18 (3) Actual reasonable expenses in searching for a replacement business
19 or farm; [and]

20 (4) Actual reasonable expenses necessary to reestablish a displaced
21 farm, nonprofit organization, or small business at its new site as determined by the
22 displacing agency, but not to exceed \$10,000;

23 (5) THE REASONABLE COST OF A SUBSTITUTE ITEM OF TANGIBLE
24 PERSONAL PROPERTY IF THE DISPLACED PERSON PROVES THAT THE SUBSTITUTE
25 ITEM IS NECESSARY FOR CONTINUED OPERATION OF THE BUSINESS OR FARM
26 OPERATION; AND

27 (6) THE REASONABLE COST OF MOVING A BUSINESS OR FARM
28 OPERATION TO ENSURE THE UNINTERRUPTED OPERATION OF THE DISPLACED
29 BUSINESS OR FARM OPERATION IF THE OWNER OF THE DISPLACED BUSINESS OR
30 FARM OPERATION CAN REASONABLY ESTABLISH THAT THE CONTINUOUS
31 OPERATION OF THE BUSINESS OR FARM OPERATION IS NECESSARY FOR THE
32 BUSINESS OR FARM OPERATION TO REMAIN VIABLE.

33 SECTION 2. AND BE IT FURTHER ENACTED, That the Governor's Office of
34 Business Advocacy and Small Business Assistance in the State Department of
35 Business and Economic Development shall:

36 (1) assist small businesses that are acquired, in whole or in part, by
37 condemnation by identifying State loan programs that may be available to the

1 condemnee and directing a condemnee, on request, to the appropriate person in State
2 government to assist the condemnee in obtaining a loan; and

3 (2) comprehensively review the limits on the amount of relocation
4 assistance set forth in Title 12, Subtitle 2 of the Real Property Article, update these
5 limits to present-day dollar amounts, and on or before December 31, 2006, submit a
6 report to the General Assembly, in accordance with § 2-1246 of the State Government
7 Article, on their findings and recommendations.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2006.