
By: **Delegate Holmes**

Introduced and read first time: February 10, 2006

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Condemnation - Urban Renewal or Economic Development - Required**
 3 **Findings - Judicial Review**

4 FOR the purpose of stating the intent of the General Assembly concerning
 5 preservation of certain businesses when property is acquired by condemnation
 6 for urban renewal or economic development purposes; requiring a government
 7 unit to make certain findings with respect to certain businesses before
 8 condemning private property for urban renewal or economic development
 9 purposes; requiring the government unit to make a written record of its
 10 findings; establishing a certain standard of judicial review of the government
 11 unit's findings; and generally relating to certain businesses acquired by
 12 condemnation.

13 BY adding to
 14 Article - Real Property
 15 Section 12-101.1
 16 Annotated Code of Maryland
 17 (2003 Replacement Volume and 2005 Supplement)

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

20 **Article - Real Property**

21 12-101.1.

22 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 23 INDICATED.

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

25 (3) "GOVERNMENT UNIT" MEANS THE STATE, AN AGENCY, AUTHORITY,
 26 BOARD, COMMISSION, COUNCIL, OFFICE, PUBLIC OR QUASI-PUBLIC CORPORATION,
 27 OR OTHER UNIT OR INSTRUMENTALITY OF THE STATE OR A COUNTY, POLITICAL
 28 SUBDIVISION, OR MUNICIPAL CORPORATION.

1 (B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

2 (1) A VIABLE BUSINESS SHOULD BE PRESERVED WHENEVER
3 REASONABLY PRACTICABLE AND SHOULD NOT BE ACQUIRED BY CONDEMNATION
4 FOR URBAN RENEWAL OR ECONOMIC DEVELOPMENT PURPOSES UNLESS OTHER
5 ALTERNATIVES ARE SHOWN NOT TO BE REASONABLY PRACTICABLE; AND

6 (2) WHEN IT IS NECESSARY TO ACQUIRE AN EXISTING BUSINESS BY
7 CONDEMNATION, THE GOVERNMENT UNIT SHALL MAKE EVERY REASONABLE
8 EFFORT TO ENSURE THAT THE BUSINESS IS INCORPORATED IN THE URBAN
9 RENEWAL OR ECONOMIC DEVELOPMENT PROJECT AT ITS EXISTING LOCATION OR AT
10 A NEARBY LOCATION.

11 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A GOVERNMENT
12 UNIT MAY NOT CONDEMN PRIVATE PROPERTY FOR PURPOSES OF URBAN RENEWAL
13 OR ECONOMIC DEVELOPMENT UNLESS THE GOVERNMENT UNIT MAKES A FINDING,
14 WITH RESPECT TO EACH BUSINESS THAT WILL BE AFFECTED BY THE PROJECT FOR
15 WHICH THE PROPERTY IS BEING CONDEMNED, AS TO:

16 (1) THE EFFECT OF CONDEMNATION ON THE BUSINESS AND WHETHER
17 THE PROJECT COULD BE RESTRUCTURED TO AVOID THE CONDEMNATION OF THE
18 BUSINESS; AND

19 (2) WHETHER THE DISPLACED OWNER OR TENANT OF THE BUSINESS
20 HAS BEEN GIVEN A REASONABLE OPPORTUNITY TO BE INCLUDED IN THE PROJECT
21 AT ITS EXISTING LOCATION OR AT A NEARBY LOCATION.

22 (D) THE GOVERNMENT UNIT SHALL MAKE A WRITTEN RECORD OF ITS
23 FINDINGS UNDER SUBSECTION (C) OF THIS SECTION.

24 (E) (1) THE STANDARD OF JUDICIAL REVIEW APPLICABLE TO
25 ADMINISTRATIVE DECISIONS SHALL APPLY TO THE FINDINGS OF THE GOVERNMENT
26 UNIT UNDER SUBSECTION (C) OF THIS SECTION.

27 (2) IN ITS REVIEW, THE COURT SHALL DETERMINE WHETHER:

28 (I) THE GOVERNMENT UNIT EMPLOYED THE CORRECT LEGAL
29 STANDARDS;

30 (II) A REASONING MIND COULD HAVE REASONABLY REACHED THE
31 CONCLUSIONS OF THE GOVERNMENT UNIT ON MIXED QUESTIONS OF LAW AND
32 FACT; AND

33 (III) THE FACTUAL FINDINGS OF THE GOVERNMENT UNIT ARE
34 SUPPORTED BY SUBSTANTIAL EVIDENCE.

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