

UNOFFICIAL COPY OF SENATE BILL 155
CONSTITUTIONAL AMENDMENT

N1

6lr1124
CF 6lr1658

By: **Senators Harris, Hooper, and Jacobs**
Introduced and read first time: January 19, 2006
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Harford County - Eminent Domain - Limitation on Condemnation Authority**

3 FOR the purpose of proposing amendments to the Maryland Constitution to limit the
4 condemnation of private property in Harford County under certain
5 circumstances; defining a certain term; and submitting this amendment to the
6 qualified voters of the State of Maryland for their adoption or rejection.

7 BY proposing an amendment to the Maryland Constitution
8 Article III - Legislative Department
9 Section 40, 40A, and 61

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, (Three-fifths of all the members elected to each of the two Houses
12 concurring), That it be proposed that the Maryland Constitution read as follows:

13 **Article III - Legislative Department**

14 40.

15 (A) The General Assembly shall enact no Law authorizing private property, to
16 be taken for public use, without just compensation, as agreed upon between the
17 parties, or awarded by a Jury, being first paid or tendered to the party entitled to such
18 compensation.

19 (B) FOR PURPOSES OF THIS SECTION, IN HARFORD COUNTY:

20 (1) "PUBLIC USE" MEANS:

21 (I) PUBLIC OWNERSHIP OR CONTROL; OR

22 (II) PHYSICAL USE OR ACCESS BY THE GENERAL PUBLIC; AND

23 (2) "PUBLIC USE" DOES NOT INCLUDE USE FOR ECONOMIC
24 DEVELOPMENT PURPOSES, INCLUDING:

25 (I) URBAN RENEWAL;

- 1 (II) COMMUNITY REVITALIZATION OR REDEVELOPMENT;
- 2 (III) COMMERCIAL OR INDUSTRIAL DEVELOPMENT;
- 3 (IV) JOB CREATION; OR
- 4 (V) GENERATION OF TAX REVENUE.

5 40A.

6 (A) (1) The General Assembly shall enact no law authorizing private
 7 property to be taken for public use without just compensation, to be agreed upon
 8 between the parties, or awarded by a jury, being first paid or tendered to the party
 9 entitled to such compensation, but where such property is situated in:

10 (I) Baltimore City and is desired by this State or by the Mayor and
 11 City Council of Baltimore, the General Assembly may provide that such property may
 12 be taken immediately upon payment therefor to the owner or owners thereof by the
 13 State or by the Mayor and City Council of Baltimore, or into court, such amount as
 14 the State or the Mayor and City Council of Baltimore, as the case may be, shall
 15 estimate to be the fair value of said property, provided such legislation also requires
 16 the payment of any further sum that may subsequently be added by a jury; and
 17 further provided that the authority and procedure for the immediate taking of
 18 property as it applies to the Mayor and City Council of Baltimore on June 1, 1961,
 19 shall remain in force and effect to and including June 1, 1963[, and where such
 20 property is situated in];

21 (II) Baltimore County and is desired by Baltimore County,
 22 Maryland, the County Council of Baltimore County, Maryland, may provide for the
 23 appointment of an appraiser or appraisers by a Court of Record to value such property
 24 and that upon payment of the amount of such evaluation, to the party entitled to
 25 compensation, or into Court, and securing the payment of any further sum that may
 26 be awarded by a jury, such property may be taken; and

27 (III) [where such property is situated in] Montgomery County and
 28 in the judgment of and upon a finding by the County Council of said County that
 29 there is immediate need therefor for right of way for County roads or streets, the
 30 County Council may provide that such property may be taken immediately upon
 31 payment therefor to the owner or owners thereof, or into court, such amount as a
 32 licensed real estate broker or a licensed and certified real estate appraiser appointed
 33 by the County Council shall estimate to be the fair market value of such property,
 34 provided that the Council shall secure the payment of any further sum that may
 35 subsequently be awarded by a jury.

36 (2) In the various municipal corporations within Cecil County, where in
 37 the judgment of and upon a finding by the governing body of said municipal
 38 corporation that there is immediate need therefor for right of way for municipal
 39 roads, streets and extension of municipal water and sewage facilities, the governing
 40 body may provide that such property may be taken immediately upon payment
 41 therefor to the owner or owners thereof, or into court, such amount as a licensed real

1 estate broker appointed by the particular governing body shall estimate to be a fair
 2 market value of such property, provided that the municipal corporation shall secure
 3 the payment of any further sum that subsequently may be awarded by a jury.

4 (3) [This Section 40A] PARAGRAPHS (1)(III) AND (2) OF THIS
 5 SUBSECTION shall not apply in Montgomery County or any of the various municipal
 6 corporations within Cecil County, if the property actually to be taken includes a
 7 building or buildings.

8 (B) FOR PURPOSES OF THIS SECTION, IN HARFORD COUNTY:

9 (1) "PUBLIC USE" MEANS:

10 (I) PUBLIC OWNERSHIP OR CONTROL; OR

11 (II) PHYSICAL USE OR ACCESS BY THE GENERAL PUBLIC; AND

12 (2) "PUBLIC USE" DOES NOT INCLUDE USE FOR ECONOMIC
 13 DEVELOPMENT PURPOSES, INCLUDING:

14 (I) URBAN RENEWAL;

15 (II) COMMUNITY REVITALIZATION OR REDEVELOPMENT;

16 (III) COMMERCIAL OR INDUSTRIAL DEVELOPMENT;

17 (IV) JOB CREATION; OR

18 (V) GENERATION OF TAX REVENUE.

19 61.

20 (a) (1) The General Assembly may authorize and empower any county or
 21 any municipal corporation, by public local law:

22 [(1)] (I) [To] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS
 23 SUBSECTION, TO carry out urban renewal projects which shall be limited to slum
 24 clearance in slum or blighted areas and redevelopment or the rehabilitation of slum
 25 or blighted areas, and to include the acquisition, within the boundary lines of such
 26 county or municipal corporation, of land and property of every kind and any right,
 27 interest, franchise, easement or privilege therein, by purchase, lease, gift,
 28 condemnation or any other legal means. The term "slum area" shall mean any area
 29 where dwellings predominate which, by reason of depreciation, overcrowding, faulty
 30 arrangement or design, lack of ventilation, light or sanitary facilities, or any
 31 combination of these factors, are detrimental to the public safety, health or morals.
 32 The term "blighted area" shall mean an area in which a majority of buildings have
 33 declined in productivity by reason of obsolescence, depreciation or other causes to an
 34 extent they no longer justify fundamental repairs and adequate maintenance[.]; AND

35 [(2)] (II) To sell, lease, convey, transfer or otherwise dispose of any of said
 36 land or property, regardless of whether or not it has been developed, redeveloped,

1 altered or improved and irrespective of the manner or means in or by which it may
2 have been acquired, to any private, public or quasi public corporation, partnership,
3 association, person or other legal entity.

4 (2) No land or property taken by any county or any municipal
5 corporation for any of the aforementioned purposes or in connection with the exercise
6 of any of the powers which may be granted to such county or municipal corporation
7 pursuant to this section by exercising the power of eminent domain shall be taken
8 without just compensation, as agreed upon between the parties, or awarded by a jury,
9 being first paid or tendered to the party entitled to such compensation.

10 (3) All land or property needed, or taken by the exercise of the power of
11 eminent domain, by any county or any municipal corporation for any of the
12 aforementioned purposes or in connection with the exercise of any of the powers
13 which may be granted pursuant to this section is hereby declared to be needed or
14 taken for public uses and purposes. Any or all of the activities authorized pursuant to
15 this section shall constitute governmental functions undertaken for public uses and
16 purposes and the power of taxation may be exercised, public funds expended and
17 public credit extended in furtherance thereof.

18 (4) IN HARFORD COUNTY, PRIVATE PROPERTY MAY NOT BE ACQUIRED
19 BY CONDEMNATION TO CARRY OUT AN URBAN RENEWAL PROJECT.

20 (b) The General Assembly may grant to any county or any municipal
21 corporation, by public local law, any and all additional power and authority necessary
22 or proper to carry into full force and effect any and all of the specific powers
23 authorized by this section and to fully accomplish any and all of the purposes and
24 objects contemplated by the provisions of this section, provided such additional power
25 or authority is not inconsistent with the terms and provisions of this section or with
26 any other provision or provisions of the Constitution of Maryland.

27 (c) The General Assembly of Maryland, by public local law, may establish or
28 authorize the establishment of a public body or agency to undertake in a county or
29 municipal corporation (other than Baltimore City) the activities authorized by this
30 section, and may provide that any or all of the powers, except the power of taxation,
31 herein authorized to be granted to such county or municipal corporation shall be
32 vested in such public body or agency or in any existing public body or agency.

33 (d) The General Assembly may place such other and further restrictions or
34 limitations on the exercise of any of the powers provided for in this section, as it may
35 deem proper and expedient.

36 (e) The provisions of this section are independent of, and shall in no way
37 affect, the powers granted under Article XIB of the Constitution of Maryland, title
38 "City of Baltimore -- Land Development and Redevelopment." Also, the power
39 provided in this section for the General Assembly to enact public local laws
40 authorizing any municipal corporation or any county to carry out urban renewal
41 projects prevails over the restrictions contained in Article 11A "Local Legislation" and
42 in Article 11E "Municipal Corporations" of this Constitution.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
2 determines that the amendment to the Maryland Constitution proposed by this Act
3 affects only one county and that the provisions of Article XIV, § 1 of the Maryland
4 Constitution concerning local approval of constitutional amendments apply.

5 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
6 proposed as an amendment to the Maryland Constitution shall be submitted to the
7 legal and qualified voters of this State at the next general election to be held in
8 November, 2006 for their adoption or rejection in pursuance of directions contained in
9 Article XIV of the Maryland Constitution. At that general election, the vote on this
10 proposed amendment to the Constitution shall be by ballot, and upon each ballot
11 there shall be printed the words "For the Constitutional Amendment" and "Against
12 the Constitutional Amendment," as now provided by law. Immediately after the
13 election, all returns shall be made to the Governor of the vote for and against the
14 proposed amendment, as directed by Article XIV of the Maryland Constitution, and
15 further proceedings had in accordance with Article XIV.