

# HOUSE BILL 841

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HB 80/06 – ENV

71r1304

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By: **Delegates Boteler, Ali, Aumann, Bates, Beitzel, Frank, George, Impallaria, Kach, Krebs, McConkey, McDonough, McKee, Miller, Montgomery, Riley, Schuler, Shewell, Sossi, Stifler, Stocksdale, Stull, and Weir**

Introduced and read first time: February 9, 2007  
Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Eminent Domain – Limitation on Condemnation Authority**

3 FOR the purpose of limiting the condemnation of private property for certain  
4 purposes; requiring a certain condemnor that does not use and wants to sell  
5 certain condemned property to first offer the property at a certain price to the  
6 condemnee or the condemnee's heirs or assignees; establishing that the  
7 condemnee or the condemnee's heirs or assignees have the right to repurchase  
8 the condemned property within a certain period of time; authorizing the  
9 condemnor to sell the property to any other person if the offer is not accepted;  
10 defining a certain term; making stylistic changes; and generally relating to the  
11 condemnation of private property.

12 BY adding to

13 Article – Real Property  
14 Section 12–101 and 12–101.1  
15 Annotated Code of Maryland  
16 (2003 Replacement Volume and 2006 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – Real Property  
19 Section 12–101 and 12–108  
20 Annotated Code of Maryland  
21 (2003 Replacement Volume and 2006 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Real Property**

4 **12-101.**

5 (A) IN THIS TITLE, “PUBLIC USE” MEANS:

6 (1) PUBLIC OWNERSHIP OR CONTROL; OR

7 (2) PHYSICAL USE OR ACCESS BY THE GENERAL PUBLIC.

8 (B) “PUBLIC USE” INCLUDES THE:

9 (1) POSSESSION, USE, AND ENJOYMENT OF PROPERTY BY THE  
10 PUBLIC, THE STATE, AN INSTRUMENTALITY OF THE STATE, OR A POLITICAL  
11 SUBDIVISION;

12 (2) USE OF PROPERTY FOR THE CREATION OR OPERATION OF A  
13 PUBLIC UTILITY OR COMMON CARRIER;

14 (3) USE OF PROPERTY FOR A PUBLIC EMERGENCY OR DISASTER  
15 RELIEF; OR

16 (4) DESTRUCTION OF PROPERTY TO PREVENT A PUBLIC  
17 CATASTROPHE.

18 **12-101.1.**

19 NOTWITHSTANDING ANY OTHER LAW, THE STATE OR ANY OF ITS  
20 INSTRUMENTALITIES OR POLITICAL SUBDIVISIONS MAY NOT ACQUIRE PRIVATE  
21 PROPERTY BY CONDEMNATION UNLESS THE PRIVATE PROPERTY IS NECESSARY  
22 FOR A PUBLIC USE.

23 **[12-101.] 12-101.2.**

24 (A) All proceedings for the acquisition of private property for public use by  
25 condemnation are governed by the provisions of this title and of Title 12, Chapter 200  
26 of the Maryland Rules.

1           **(B)** [Nothing in this] **THIS** title [prevents] **DOES NOT PREVENT:**

2                   **(1)** [this] **THIS** State or any of its instrumentalities or political  
3 subdivisions, acting under statute or ordinance passed pursuant to Article III of the  
4 Maryland Constitution, from taking private property for public use immediately on  
5 making the required payment and giving any required security[. In addition, this title  
6 does not prevent];

7                   **(2)** [the] **THE** State Roads Commission from using the procedures set  
8 forth in Title 8, Subtitle 3 of the Transportation Article[, or prevent]; **OR**

9                   **(3)** Baltimore City from using the procedure set forth in the Charter of  
10 Baltimore City and §§ 21–12 through 21–22, inclusive, of the Public Local Laws of  
11 Baltimore City.

12 12–108.

13           (a) On payment of the judgment and costs by the plaintiff pursuant to the  
14 provisions of Title 12, Chapter 200 of the Maryland Rules, the plaintiff immediately  
15 shall become vested with the title, estate, or interest of the defendant in the  
16 condemned property.

17           (b) The title acquired in a condemnation proceeding shall be an absolute or  
18 fee–simple title including the right, title, and interest of each of the defendants in the  
19 proceeding whose property has been condemned unless a different title is specified in  
20 the inquisition.

21           **(C) (1) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, A**  
22 **PLAINTIFF THAT IS NOT USING PROPERTY ACQUIRED IN A CONDEMNATION**  
23 **PROCEEDING AND THAT WANTS TO SELL THE PROPERTY SHALL FIRST MAKE AN**  
24 **OFFER IN WRITING TO THE DEFENDANT FROM WHOM THE PROPERTY WAS**  
25 **ACQUIRED OR THE HEIRS OR ASSIGNEES OF THE DEFENDANT FOR AN AMOUNT**  
26 **AS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION.**

27                   **(2) THE SALES PRICE FOR THE CONDEMNED PROPERTY SHALL BE**  
28 **THE AMOUNT OF THE AWARD OF COMPENSATION PAID FOR THE PROPERTY LESS**  
29 **DOCUMENTED TAXES AND OTHER EXPENSES PAID BY THE DEFENDANT THAT**  
30 **WERE NOT REIMBURSED BY THE PLAINTIFF DURING THE CONDEMNATION**  
31 **PROCEEDING.**

1                   **(3) (I) THE DEFENDANT OR THE HEIRS OR ASSIGNEES OF THE**  
2 **DEFENDANT HAVE THE RIGHT TO REPURCHASE THE CONDEMNED PROPERTY**  
3 **WITHIN 90 DAYS AFTER THE DATE OF THE WRITTEN OFFER.**

4                   **(II) IF THE DEFENDANT OR THE HEIRS OR ASSIGNEES OF**  
5 **THE DEFENDANT DO NOT ACCEPT THE OFFER OF SALE WITHIN THE TIME**  
6 **PERIOD DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE**  
7 **PLAINTIFF MAY SELL THE PROPERTY TO ANY OTHER PERSON IN ACCORDANCE**  
8 **WITH PROCEDURES ESTABLISHED IN LAW.**

9                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2007.