

# HOUSE BILL 1043

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By: **Delegates Rosenberg and Sophocleus**

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 – Condemnation – Procedures and Compensation**

3 FOR the purpose of eliminating certain monetary limitations on payments made to  
4 certain displaced residential owners and renters to secure replacement  
5 dwellings in certain condemnation proceedings; eliminating certain monetary  
6 limitations for reestablishing certain farms, nonprofit organizations, or  
7 businesses at new sites; establishing that damages awarded for the taking of  
8 property used for a business or farm operation may include certain damages for  
9 loss of net operating income for a certain period of time; establishing that  
10 damages in a condemnation proceeding may be paid to a business or farm  
11 operation for moving the business or farm operation under certain  
12 circumstances; altering the payment for relocation costs in a condemnation  
13 proceeding by adding certain payments for substitute tangible personal  
14 property under certain circumstances and by altering certain monetary  
15 limitations; expressing the intent of the General Assembly; defining certain  
16 terms; making stylistic changes; and generally relating to procedures and  
17 compensation in condemnation proceedings.

18 BY repealing and reenacting, with amendments,  
19 Article – Real Property  
20 Section 12–101, 12–202, 12–204, and 12–205  
21 Annotated Code of Maryland  
22 (2003 Replacement Volume and 2006 Supplement)

23 BY adding to  
24 Article – Real Property

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 12-102.1  
Annotated Code of Maryland  
(2003 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,  
Article – Real Property  
Section 12-201(a), (c), (f), and (g)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2006 Supplement)

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

**Article – Real Property**

12-101.

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

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

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

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

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

**12-102.1.**

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

1                   (2)    **“BUSINESS” HAS THE MEANING STATED IN § 12-201 OF THIS**  
2 **TITLE.**

3                   (3)    **“FARM OPERATION” HAS THE MEANING STATED IN § 12-201**  
4 **OF THIS TITLE.**

5                   (4)    **“GOVERNMENT UNIT” MEANS THE STATE, AN AGENCY,**  
6 **AUTHORITY, BOARD, COMMISSION, COUNCIL, OFFICE, PUBLIC OR QUASI-PUBLIC**  
7 **CORPORATION, OR OTHER UNIT OR INSTRUMENTALITY OF THE STATE OR A**  
8 **COUNTY, POLITICAL SUBDIVISION, OR MUNICIPAL CORPORATION.**

9           (b)    **IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:**

10                   (1)    **A VIABLE BUSINESS, DWELLING, OR FARM OPERATION**  
11 **SHOULD BE PRESERVED WHENEVER REASONABLY PRACTICABLE AND SHOULD**  
12 **NOT BE ACQUIRED BY CONDEMNATION FOR URBAN RENEWAL OR ECONOMIC**  
13 **DEVELOPMENT PURPOSES UNLESS OTHER ALTERNATIVES ARE SHOWN NOT TO**  
14 **BE REASONABLY PRACTICABLE; AND**

15                   (2)    **WHEN IT IS NECESSARY TO ACQUIRE AN EXISTING BUSINESS**  
16 **OR FARM OPERATION BY CONDEMNATION, THE GOVERNMENT UNIT SHALL MAKE**  
17 **EVERY REASONABLE EFFORT TO ENSURE THAT THE BUSINESS OR FARM**  
18 **OPERATION IS INCORPORATED IN THE URBAN RENEWAL OR ECONOMIC**  
19 **DEVELOPMENT PROJECT AT ITS EXISTING LOCATION OR AT A NEARBY**  
20 **LOCATION.**

21   12-201.

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

24           (c)    “Business” means any lawful activity, except a farm operation, conducted  
25 primarily:

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

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

(3) By a nonprofit organization.

(f) “Displacing agency” means any public or private agency or person carrying out:

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

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

(3) Acquisition by eminent domain or by negotiation.

(g) “Farm operation” means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber for sale or home use, and customarily producing these products or commodities in sufficient quantity to be capable of contributing materially to the operator’s support.

12–202.

(a) (1) In addition to payment otherwise authorized, a displacing agency shall make an additional payment [not in excess of \$22,500] **AS DETERMINED BY THE DISPLACING AGENCY** to any displaced person who is displaced from a dwelling actually owned and occupied by the displaced person for not less than 180 days prior to the initiation of negotiations for the acquisition of the real property.

(2) [(i) The displacing agency may exceed the monetary limit stated in paragraph (1) of this subsection on a case-by-case basis if it determines that comparable housing cannot otherwise be made available within the limit; or

(ii)] The displacing agency may use any other measures necessary to remedy the unavailability of comparable housing.

(b) The additional payments shall include the following elements:

(1) Any amount which when added to the acquisition cost of the dwelling acquired by the displacing agency, equals the reasonable cost of a comparable replacement dwelling as defined in § 12–201(d) of this subtitle.

(2) Any amount which will compensate the displaced person for any increased interest costs and other debt service costs which the person is required to pay for financing the acquisition of any comparable replacement dwelling. The amount shall be paid only if the dwelling acquired by the displacing agency was encumbered

1 by a bona fide mortgage which was a valid lien on the dwelling for not less than 180  
2 days prior to the initiation of negotiations for the acquisition of the dwelling. The  
3 method of calculation shall be determined by the lead agency.

4 (3) Reasonable expenses incurred by the displaced person for evidence  
5 of title, recording fees, and other closing costs incident to the purchase of the  
6 replacement dwelling, but not including prepaid expenses.

7 12-204.

8 (a) In addition to amounts otherwise authorized by this title and Title 8 of  
9 the Transportation Article, the displacing agency shall make a payment to or for any  
10 displaced person displaced from any dwelling and not eligible to receive a payment  
11 under § 12-202 of this subtitle, if the dwelling actually and lawfully was occupied by  
12 the displaced person for not less than 90 days before the initiation of negotiations for  
13 acquisition of the dwelling or in any case in which displacement is not a direct result  
14 of acquisition, such other activity as the lead agency shall prescribe.

15 (b) (1) (i) The payment shall be the amount necessary to enable the  
16 person to lease or rent for a period not to exceed 42 months, a comparable replacement  
17 dwelling[, but not to exceed \$5,250] **AS DETERMINED BY THE DISPLACING AGENCY.**

18 (ii) At the discretion of the displacing agency, a payment under  
19 this subsection may be made in periodic installments.

20 (iii) Computation of a payment under this subsection to a low  
21 income displaced person for a comparable replacement dwelling shall take into  
22 account such person's income.

23 (2) [(i) If the displacing agency determines that comparable housing  
24 cannot otherwise be made available within this limit, the monetary limit stated in  
25 paragraph (1) of this subsection may be exceeded on a case-by-case basis.

26 (ii)] The displacing agency may use any other measures  
27 necessary to remedy unavailability of comparable housing as prescribed by the lead  
28 agency.

29 (c) (1) Any person eligible for a payment under subsection (a) of this  
30 section may elect to apply the payment to a down payment on, and other incidental  
31 expenses applicable to, the purchase of a decent, safe, and sanitary replacement  
32 dwelling.

1           (2) At the discretion of the displacing agency, that person may be  
2 eligible under this subsection for the maximum payment allowed under subsection (a)  
3 of this section, except that, in the case of a displaced homeowner who has owned and  
4 occupied the displacement dwelling for at least 90 days but not more than 180 days  
5 immediately before the initiation of negotiations for the acquisition of the dwelling, the  
6 payment may not exceed the payment the person would otherwise have received under  
7 § 12-202 of this subtitle had the person owned and occupied the displacement dwelling  
8 180 days immediately before the initiation of the negotiations.

9 12-205.

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

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

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

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

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

25           **(5) AS DETERMINED BY AND SUBJECT TO THE APPROVAL OF THE**  
26 **DISPLACING AGENCY, FOR A PERIOD OF 3 YEARS FOLLOWING THE DATE OF**  
27 **RELOCATION THE PRESENT VALUE OF REASONABLY ANTICIPATED REDUCTION**  
28 **IN NET INCOME OF A SMALL BUSINESS THAT IS CAUSED BY THE RELOCATION;**

29           **(6) THE REASONABLE COST OF A SUBSTITUTE ITEM OF TANGIBLE**  
30 **PERSONAL PROPERTY IF THE DISPLACED PERSON PROVES THAT THE**  
31 **SUBSTITUTE ITEM IS NECESSARY FOR CONTINUED OPERATION OF THE**  
32 **BUSINESS OR FARM OPERATION; AND**

1           **(7) THE REASONABLE COST OF MOVING A BUSINESS OR FARM**  
2 **OPERATION TO ENSURE THE UNINTERRUPTED OPERATION OF THE DISPLACED**  
3 **BUSINESS OR FARM OPERATION IF THE OWNER OF THE DISPLACED BUSINESS**  
4 **OR FARM OPERATION CAN REASONABLY ESTABLISH THAT THE CONTINUOUS**  
5 **OPERATION OF THE BUSINESS OR FARM OPERATION IS NECESSARY FOR THE**  
6 **BUSINESS OR FARM OPERATION TO REMAIN VIABLE.**

7           (b) Any displaced person eligible for payments under subsection (a) of this  
8 section, who is displaced from a dwelling and who elects to accept the payments  
9 authorized by this subsection in lieu of the payments authorized by subsection (a) of  
10 this section, may receive a moving expense allowance, determined according to a  
11 schedule established by the lead agency.

12           (c) (1) Any displaced person eligible for payments under subsection (a) of  
13 this section who is displaced from the person's place of business or farm operation and  
14 who is eligible under criteria established by the lead agency may elect to accept the  
15 payment authorized by this subsection in lieu of the payment authorized by subsection  
16 (a) of this section.

17           (2) Such payment shall consist of a fixed payment in an amount to be  
18 determined according to criteria established by the lead agency, except that such  
19 payment may not be less than \$1,000 nor more than [\$20,000] **\$50,000** or the amount  
20 provided under the federal Uniform Relocation Assistance Act, whichever is greater.

21           (3) A person whose sole business at the displacement dwelling is the  
22 rental of such property to others shall not qualify for a payment under this subsection.

23           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 July 1, 2007.