

SENATE BILL 3

N1
SB 3/06 – JPR

(PRE-FILED)

7lr1134

By: **Senators DeGrange, Miller, Astle, Currie, Della, Garagiola, Gladden, Hogan, Kasemeyer, Kelley, Kramer, Pugh, Raskin, and Stone**

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Introduced and read first time: January 11, 2007

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 28, 2007

CHAPTER _____

1 AN ACT concerning

2 ~~**Property Protection Act of 2007**~~
3 **Real Property – Condemnation – Procedures and Compensation**

4 FOR the purpose of ~~requiring a certain government unit to make certain findings~~
5 ~~before condemning and transferring private property to a private party for~~
6 ~~economic development purposes; requiring the government unit to make a~~
7 ~~certain written record of its findings; establishing a certain standard for judicial~~
8 ~~review of a government unit's findings; prohibiting a government unit from~~
9 ~~condemning private property used for a farm operation under certain~~
10 ~~circumstances; establishing that damages awarded for the taking of property~~
11 ~~used for a business or farm operation shall include certain damages for the loss~~
12 ~~of "goodwill" under certain circumstances and certain damages for loss of net~~
13 ~~operating income for a certain period of time; requiring an owner of a business~~
14 ~~or farm operation to prove certain elements of a loss of "goodwill" in order to~~
15 ~~receive certain payments; prohibiting an owner of a business or farm operation~~
16 ~~from receiving compensation for "goodwill" if that compensation is included in~~
17 ~~other compensation received; establishing a certain limitation on the amount of~~
18 ~~compensation for "goodwill";~~ requiring the State, its instrumentality, or a
19 political subdivision to file a condemnation action for certain property within a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 certain period of time after a certain administrative or legislative determination
 2 to take the property; requiring the State, its instrumentality, or a political
 3 subdivision to obtain a new authorization to condemn certain property if it does
 4 not file a condemnation action within a certain period of time; ~~requiring the~~
 5 ~~plaintiff in a condemnation proceeding to pay certain costs incurred by the~~
 6 ~~defendant under certain circumstances; establishing a right to reacquire certain~~
 7 ~~condemned land not needed for a public purpose; establishing procedures for the~~
 8 ~~reacquisition of certain condemned land; altering certain monetary limitations~~
 9 ~~on payments made to certain displaced residential owners and renters to secure~~
 10 ~~replacement dwellings in certain condemnation proceedings; altering certain~~
 11 ~~monetary limitations for reestablishing certain farms, nonprofit organizations,~~
 12 ~~or small businesses at new sites; altering certain monetary limitations on~~
 13 ~~certain fixed fee payments paid to certain displaced farm or business owners in~~
 14 ~~lieu of certain reestablishment expenses; requiring a representative of a~~
 15 ~~displacing agency to contact the owner of a certain business or farm operation~~
 16 ~~within a certain period of time before the filing of a condemnation action to~~
 17 ~~negotiate regarding relocation plans for the business or farm operation; altering~~
 18 ~~the payment for relocation costs in a condemnation proceeding by adding~~
 19 ~~certain payments for substitute tangible personal property under certain~~
 20 ~~circumstances and by repealing certain monetary limitations; expressing the~~
 21 ~~intent of the General Assembly; defining certain terms; making stylistic~~
 22 ~~changes; and generally relating to procedures and compensation in~~
 23 ~~condemnation proceedings.~~

24 ~~BY repealing and reenacting, with amendments,~~
 25 ~~Article – Real Property~~
 26 ~~Section 12-101, 12-106, and 12-205~~
 27 ~~Annotated Code of Maryland~~
 28 ~~(2003 Replacement Volume and 2006 Supplement)~~

29 BY adding to
 30 Article – Real Property
 31 Section ~~12-102.1, 12-104(h), 12-105.1, 12-113,~~ and 12-205.1
 32 Annotated Code of Maryland
 33 (2003 Replacement Volume and 2006 Supplement)

34 ~~BY repealing and reenacting, without amendments,~~
 35 ~~Article – Real Property~~
 36 ~~Section 12-104(a) and 12-201(a), (c), (f), and (g)~~
 37 ~~Annotated Code of Maryland~~
 38 ~~(2003 Replacement Volume and 2005 Supplement)~~

39 BY repealing and reenacting, with amendments,

1 Article – Real Property
 2 Section 12-202, 12-204, and 12-205
 3 Annotated Code of Maryland
 4 (2003 Replacement Volume and 2006 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 ~~12-101.~~

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

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

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

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

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

23 ~~12-102.1.~~

24 ~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE~~
 25 ~~MEANINGS INDICATED.~~

26 ~~(2) “BUSINESS” HAS THE MEANING STATED IN § 12-201 OF THIS~~
 27 ~~TITLE.~~

28 ~~(3) “ECONOMIC DEVELOPMENT” INCLUDES INCREASING TAX~~
 29 ~~REVENUE, TAX BASE, EMPLOYMENT, OR GENERAL ECONOMIC HEALTH.~~

1 ~~(4) "FARM OPERATION" HAS THE MEANING STATED IN § 12-201~~
2 ~~OF THIS TITLE.~~

3 ~~(5) "GOVERNMENT UNIT" MEANS:~~

4 ~~(I) THE STATE;~~

5 ~~(II) A COUNTY, POLITICAL SUBDIVISION, OR MUNICIPAL~~
6 ~~CORPORATION; OR~~

7 ~~(III) AN AGENCY, AUTHORITY, BOARD, COMMISSION,~~
8 ~~COUNCIL, OFFICE, PUBLIC OR QUASI-PUBLIC CORPORATION, OR OTHER UNIT~~
9 ~~OR INSTRUMENTALITY OF THE STATE OR OF A COUNTY, POLITICAL~~
10 ~~SUBDIVISION, OR MUNICIPAL CORPORATION.~~

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

12 ~~(1) A VIABLE BUSINESS SHOULD BE PRESERVED WHENEVER~~
13 ~~REASONABLY PRACTICABLE AND SHOULD NOT BE ACQUIRED BY~~
14 ~~CONDEMNATION FOR URBAN RENEWAL OR ECONOMIC DEVELOPMENT~~
15 ~~PURPOSES UNLESS OTHER ALTERNATIVES ARE SHOWN NOT TO BE REASONABLY~~
16 ~~PRACTICABLE; AND~~

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

22 ~~(C) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION,~~
23 ~~NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A GOVERNMENT UNIT MAY~~
24 ~~NOT CONDEMN PRIVATE PROPERTY IF THE PROPERTY WILL BE SOLD, LEASED,~~
25 ~~TRANSFERRED, OR OTHERWISE CONVEYED TO OR FOR THE BENEFIT OF A~~
26 ~~PRIVATE PARTY FOR PURPOSES OF ECONOMIC DEVELOPMENT UNLESS THE~~
27 ~~GOVERNMENT UNIT FINDS THAT:~~

28 ~~(1) THE PROPERTY IS:~~

1 ~~(I) PART OF A COMPREHENSIVE DEVELOPMENT PLAN THAT~~
2 ~~HAS SUBSTANTIAL AND DIRECT PUBLIC USES AND BENEFITS;~~

3 ~~(H) NECESSARY TO CARRY OUT THE COMPREHENSIVE~~
4 ~~DEVELOPMENT PLAN; AND~~

5 ~~(III) NOT BEING CONDEMNED SOLELY OR PRIMARILY TO~~
6 ~~BENEFIT A PRIVATE PARTY;~~

7 ~~(2) (I) THE COMPREHENSIVE DEVELOPMENT PLAN COULD NOT~~
8 ~~BE CARRIED OUT BY PRIVATE DEVELOPERS; AND~~

9 ~~(H) CONDEMNATION IS NECESSARY TO ACCOMPLISH THE~~
10 ~~COMPREHENSIVE DEVELOPMENT PLAN; AND~~

11 ~~(3) WITH RESPECT TO A BUSINESS THAT WILL BE AFFECTED BY~~
12 ~~THE COMPREHENSIVE DEVELOPMENT PLAN;~~

13 ~~(I) THE EFFECT OF CONDEMNATION ON THE BUSINESS AND~~
14 ~~WHETHER THE COMPREHENSIVE DEVELOPMENT PLAN COULD BE~~
15 ~~RESTRUCTURED TO AVOID THE CONDEMNATION OF THE BUSINESS HAVE BEEN~~
16 ~~CONSIDERED;~~

17 ~~(H) THE DISPLACED OWNER OR TENANT OF THE BUSINESS~~
18 ~~HAS BEEN GIVEN A REASONABLE OPPORTUNITY TO BE INCLUDED IN THE~~
19 ~~COMPREHENSIVE DEVELOPMENT PLAN; AND~~

20 ~~(III) IF THE BUSINESS COULD NOT BE INCLUDED IN THE~~
21 ~~COMPREHENSIVE DEVELOPMENT PLAN, THE GOVERNMENT UNIT HAS PROVIDED~~
22 ~~THE DISPLACED OWNER OR TENANT OF THE BUSINESS WITH AN ALTERNATIVE~~
23 ~~LOCATION SUITABLE TO MAINTAIN THE BUSINESS.~~

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

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

29 ~~(2) IN ITS REVIEW, THE COURT SHALL DETERMINE IF:~~

1 (I) ~~THE GOVERNMENT UNIT EMPLOYED THE CORRECT~~
2 ~~LEGAL STANDARDS;~~

3 (H) ~~A REASONING MIND COULD HAVE REASONABLY~~
4 ~~REACHED THE CONCLUSIONS OF THE GOVERNMENT UNIT ON MIXED QUESTIONS~~
5 ~~OF LAW AND FACT; AND~~

6 (HH) ~~THE FACTUAL FINDINGS OF THE GOVERNMENT UNIT~~
7 ~~ARE SUPPORTED BY SUBSTANTIAL EVIDENCE.~~

8 (F) ~~NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A GOVERNMENT~~
9 ~~UNIT MAY NOT CONDEMN PRIVATE PROPERTY USED FOR A FARM OPERATION IF~~
10 ~~THE PROPERTY WILL BE SOLD, LEASED, TRANSFERRED, OR OTHERWISE~~
11 ~~CONVEYED TO OR FOR THE BENEFIT OF A PRIVATE PARTY FOR PURPOSES OF~~
12 ~~URBAN RENEWAL OR ECONOMIC DEVELOPMENT.~~

13 ~~12-104.~~

14 (a) ~~The damages to be awarded for the taking of land is its fair market value.~~

15 (H) (1) (I) ~~IN THIS SUBSECTION THE FOLLOWING WORDS HAVE~~
16 ~~THE MEANINGS INDICATED:~~

17 (H) ~~“BUSINESS” HAS THE MEANING STATED IN § 12-201 OF~~
18 ~~THIS TITLE.~~

19 (HH) ~~“FARM OPERATION” HAS THE MEANING STATED IN §~~
20 ~~12-201 OF THIS TITLE.~~

21 (IV) ~~“GOODWILL” MEANS THE BENEFITS THAT ACCRUE TO A~~
22 ~~BUSINESS OR FARM OPERATION AS A RESULT OF:~~

23 1. ~~ITS LOCATION;~~

24 2. ~~ITS REPUTATION FOR DEPENDABILITY, SKILL, OR~~
25 ~~QUALITY; AND~~

1 ~~3. ANY OTHER CIRCUMSTANCES RESULTING IN~~
2 ~~PROBABLE RETENTION OF EXISTING CUSTOMERS OR ACQUISITION OF NEW~~
3 ~~CUSTOMERS.~~

4 ~~(2) IN ADDITION TO ANY OTHER DAMAGES ALLOWED UNDER THIS~~
5 ~~SECTION, THE OWNER OF A BUSINESS OR FARM OPERATION CONDUCTED ON~~
6 ~~THE PROPERTY TAKEN, OR ON THE REMAINDER IF THERE IS A PARTIAL TAKING,~~
7 ~~IS ENTITLED TO:~~

8 ~~(I) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,~~
9 ~~COMPENSATION FOR LOSS OF GOODWILL, IF THE OWNER PROVES THAT THE~~
10 ~~LOSS:~~

11 ~~1. IS CAUSED BY THE TAKING OF THE PROPERTY OR~~
12 ~~THE INJURY TO THE REMAINDER;~~

13 ~~2. CANNOT REASONABLY BE PREVENTED BY A~~
14 ~~RELOCATION OF THE BUSINESS OR FARM OPERATION OR BY TAKING STEPS AND~~
15 ~~ADOPTING PROCEDURES THAT A REASONABLY PRUDENT PERSON WOULD TAKE~~
16 ~~AND ADOPT IN PRESERVING THE GOODWILL;~~

17 ~~3. WILL NOT BE INCLUDED IN RELOCATION~~
18 ~~PAYMENTS UNDER SUBTITLE 2 OF THIS TITLE; AND~~

19 ~~4. WILL NOT BE DUPLICATED IN THE~~
20 ~~COMPENSATION AWARDED TO THE OWNER; AND~~

21 ~~(II) IF THE BUSINESS OR FARM OPERATION CANNOT BE~~
22 ~~CONTINUED ON THE PROPERTY AS A RESULT OF THE TAKING, BUT THE~~
23 ~~BUSINESS OR FARM OPERATION CAN BE RELOCATED, COMPENSATION FOR THE~~
24 ~~PRESENT VALUE OF REASONABLY ANTICIPATED REDUCTIONS IN NET~~
25 ~~OPERATING INCOME THAT ARE CAUSED BY THE TAKING AND THE RELOCATION~~
26 ~~OF THE BUSINESS OR FARM OPERATION FOR A PERIOD NOT EXCEEDING 3 YEARS~~
27 ~~FROM THE DATE OF THE RELOCATION.~~

28 ~~(3) COMPENSATION FOR LOSS OF GOODWILL UNDER THIS~~
29 ~~SUBSECTION MAY NOT EXCEED 5 TIMES THE AVERAGE NET OPERATING INCOME~~
30 ~~FOR THE PREVIOUS 3 TAXABLE YEARS.~~

31 12-105.1.

1 (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE STATE OR
 2 ANY OF ITS INSTRUMENTALITIES OR POLITICAL SUBDIVISIONS SHALL FILE AN
 3 ACTION TO ACQUIRE PRIVATE PROPERTY FOR PUBLIC USE BY CONDEMNATION
 4 WITHIN 3 YEARS OF THE DATE OF THE SPECIFIC ADMINISTRATIVE OR
 5 LEGISLATIVE DETERMINATION TO ACQUIRE THE PROPERTY.

6 (B) IF AN ACTION FOR CONDEMNATION IS NOT FILED WITHIN 3 YEARS
 7 OF THE DATE DESCRIBED IN SUBSECTION (A) OF THIS SECTION, THE STATE OR
 8 ANY OF ITS INSTRUMENTALITIES OR POLITICAL SUBDIVISIONS MAY NOT
 9 PROCEED WITH CONDEMNATION UNTIL IT FIRST OBTAINS A NEW
 10 AUTHORIZATION TO CONDEMN THE PROPERTY.

11 ~~12-106.~~

12 ~~(a) The plaintiff shall pay all the costs in the trial court.~~

13 ~~(b) The costs in a condemnation proceeding include:~~

14 ~~(1) The usual per diem to the jurors;~~

15 ~~(2) The cost of transporting the trier of fact to view the property;~~

16 ~~(3) The cost of meals for the jury if the court so orders;~~

17 ~~(4) The cost of recording the inquisition among the land records and of~~
 18 ~~all documentary stamps which may be required in the transfer of the property to the~~
 19 ~~plaintiff; and~~

20 ~~(5) An allowance to the defendant, as fixed by the court, for the~~
 21 ~~reasonable legal, appraisal, and engineering fees actually incurred by the defendant~~
 22 ~~because of the condemnation proceeding[, if]:~~

23 ~~(I) IF the judgment is for the defendant on the right to~~
 24 ~~condemn; OR~~

25 ~~(II) IF THE JUDGMENT IS FOR THE PLAINTIFF ON THE RIGHT~~
 26 ~~TO CONDEMN, THE AMOUNT OF DAMAGES AWARDED TO THE DEFENDANT IS AT~~
 27 ~~LEAST 30% MORE THAN;~~

1 ~~1. IN A "QUICK TAKE" PROCEEDING, THE AMOUNT OF~~
2 ~~MONEY PAID INTO COURT; OR~~

3 ~~2. IN ANY OTHER PROCEEDING, THE AMOUNT OFFERED~~
4 ~~BY THE PLAINTIFF IN WRITING AT LEAST 30 DAYS BEFORE THE COMPLAINT WAS~~
5 ~~FILED.~~

6 ~~(e) In proceeding under Article III of the Constitution of the State, or any~~
7 ~~amendment to it, the plaintiff shall pay interest at the rate of 6 percent per annum on~~
8 ~~any difference between the amount of money initially paid into court for the use of the~~
9 ~~defendant and the jury award as stated in the inquisition, from the date the money~~
10 ~~was paid into court to the date of the inquisition or final judgment, whichever date is~~
11 ~~later.~~

12 ~~(d) On taking possession, acquiring the right to take possession, or the actual~~
13 ~~transfer of title to the plaintiff, whichever occurs first, the plaintiff immediately shall~~
14 ~~file with the supervisor of assessments for the county involved a written notification or~~
15 ~~record setting forth in sufficient detail the area of the land and a description of any~~
16 ~~improvement being acquired. If the plaintiff is an agency or instrumentality of the~~
17 ~~State, the supervisor of assessments, on filing of the notification or record,~~
18 ~~immediately shall remove the property from the tax rolls.~~

19 ~~12-113.~~

20 ~~(A) IN THIS SECTION, "GOVERNMENT UNIT" MEANS:~~

21 ~~(1) THE STATE;~~

22 ~~(2) A COUNTY, POLITICAL SUBDIVISION, OR MUNICIPAL~~
23 ~~CORPORATION; OR~~

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

28 ~~(B) THIS SECTION DOES NOT APPLY TO LAND ACQUIRED UNDER TITLE 8,~~
29 ~~SUBTITLE 3 OF THE TRANSPORTATION ARTICLE.~~

30 ~~(C) IF LAND ACQUIRED UNDER THIS SUBTITLE IS NOT NEEDED FOR A~~
31 ~~PRESENT OR FUTURE PUBLIC PURPOSE, THE GOVERNMENT UNIT THAT~~

~~1 ACQUIRED IT SHALL DISPOSE OF THE LAND AS SOON AS PRACTICABLE AFTER
2 THE COMPLETION OR ABANDONMENT OF THE PROJECT FOR WHICH THE LAND
3 WAS ACQUIRED.~~

~~4 (D) IF THE LAND IS NOT NEEDED FOR A PUBLIC PURPOSE, THE PERSON
5 FROM WHOM THE LAND WAS ACQUIRED OR THE SUCCESSOR IN INTEREST OF
6 THAT PERSON HAS THE RIGHT TO REACQUIRE THE LAND, ON PAYMENT OF AN
7 AMOUNT EQUAL TO THE LESSER OF:~~

~~8 (1) THE APPRAISED VALUE OF THE LAND; OR~~

~~9 (2) THE CONSIDERATION THAT THE GOVERNMENT UNIT
10 ORIGINALLY PAID FOR THE LAND, PLUS SIMPLE INTEREST AT THE FAIR MARKET
11 VALUE CALCULATED FROM THE TIME OF ACQUISITION TO THE TIME OF
12 DISPOSITION AND ADMINISTRATIVE COSTS.~~

~~13 (E) (1) THE GOVERNMENT UNIT SHALL NOTIFY THE PERSON FROM WHOM
14 THE LAND WAS ACQUIRED, OR THE SUCCESSOR IN INTEREST OF THAT PERSON,
15 WITHIN 30 DAYS AFTER MAKING A DETERMINATION THAT THE LAND IS NOT
16 NEEDED FOR A PUBLIC PURPOSE AND THAT THE LAND IS AVAILABLE FOR
17 REACQUISITION.~~

~~18 (2) IF THE RIGHT TO REACQUIRE THE LAND IS NOT EXERCISED
19 WITHIN 6 MONTHS AFTER THE GOVERNMENT UNIT PROVIDES THE NOTICE THAT
20 THE LAND IS AVAILABLE, THE GOVERNMENT UNIT SHALL DISPOSE OF THE LAND
21 IN ACCORDANCE WITH APPLICABLE LAW.~~

~~22 12-201.~~

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

~~25 (e) "Business" means any lawful activity, except a farm operation, conducted
26 primarily.~~

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

~~30 (2) For the sale of services to the public; or~~

1 ~~(3) By a nonprofit organization.~~

2 ~~(f) "Displacing agency" means any public or private agency or person~~
3 ~~carrying out:~~

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

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

7 ~~(3) Acquisition by eminent domain or by negotiation.~~

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

12 12-202.

13 (a) (1) In addition to payment otherwise authorized, a displacing agency
14 shall make an additional payment not in excess of [\$22,500] \$45,000 to any displaced
15 person who is displaced from a dwelling actually owned and occupied by the displaced
16 person for not less than 180 days prior to the initiation of negotiations for the
17 acquisition of the real property.

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

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

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

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

27 (2) Any amount which will compensate the displaced person for any
28 increased interest costs and other debt service costs which the person is required to
29 pay for financing the acquisition of any comparable replacement dwelling. The amount
30 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] **\$10,500.**

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) THE REASONABLE COST OF A SUBSTITUTE ITEM OF TANGIBLE~~
 26 ~~PERSONAL PROPERTY IF THE DISPLACED PERSON PROVES THAT THE~~
 27 ~~SUBSTITUTE ITEM IS NECESSARY FOR CONTINUED OPERATION OF THE~~
 28 ~~BUSINESS OR FARM OPERATION; AND~~

29 ~~(6) THE REASONABLE COST OF MOVING A BUSINESS OR FARM~~
 30 ~~OPERATION TO ENSURE THE UNINTERRUPTED OPERATION OF THE DISPLACED~~
 31 ~~BUSINESS OR FARM OPERATION IF THE OWNER OF THE DISPLACED BUSINESS~~
 32 ~~OR FARM OPERATION CAN REASONABLY ESTABLISH THAT THE CONTINUOUS~~
 33 ~~OPERATION OF THE BUSINESS OR FARM OPERATION IS NECESSARY FOR THE~~
 34 ~~BUSINESS OR FARM OPERATION TO REMAIN VIABLE \$60,000.~~

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

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

11 (2) Such payment shall consist of a fixed payment in an amount to be
12 determined according to criteria established by the lead agency, except that such
13 payment may not be less than \$1,000 ~~nor more than \$20,000~~ **\$60,000** or the amount
14 provided under the federal Uniform Relocation Assistance Act, whichever is greater.

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

17 **12-205.1.**

18 **IN ANY PROCEEDING FOR THE ACQUISITION OF PRIVATE PROPERTY FOR**
19 **PUBLIC USE BY CONDEMNATION IN WHICH LAND OR ANY PART OF IT IS BEING**
20 **USED FOR A BUSINESS OR FARM OPERATION, A REPRESENTATIVE OF THE**
21 **DISPLACING AGENCY SHALL CONTACT THE OWNER OF THE BUSINESS OR FARM**
22 **OPERATION NOT LESS THAN 30 DAYS BEFORE THE FILING OF THE ACTION AND**
23 **NEGOTIATE IN GOOD FAITH REGARDING A PLAN UNDER WHICH THE BUSINESS**
24 **OR FARM OPERATION MAY BE RELOCATED.**

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