

# SENATE BILL 75

N1

CONSTITUTIONAL AMENDMENT

71r1281

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By: **Harford County Senators**

Introduced and read first time: January 22, 2007

Assigned to: Judicial Proceedings

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## 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; making stylistic changes; and  
6 submitting this amendment to the qualified voters of the State of Maryland for  
7 their adoption or rejection.

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

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

14 **Article III – Legislative Department**

15 40.

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

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(1) "PUBLIC USE" MEANS:**

2                   **(I) PUBLIC OWNERSHIP OR CONTROL;**

3                   **(II) USE FOR THE CREATION OR OPERATION OF A PUBLIC**  
4 **SERVICE COMPANY, AS DEFINED BY LAW; OR**

5                   **(III) PHYSICAL USE OR ACCESS BY THE GENERAL PUBLIC;**

6 **AND**

7           **(2) "PUBLIC USE" DOES NOT INCLUDE USE FOR ECONOMIC**  
8 **DEVELOPMENT PURPOSES, INCLUDING:**

9                   **(I) URBAN RENEWAL;**

10                   **(II) COMMUNITY REVITALIZATION OR REDEVELOPMENT;**

11                   **(III) COMMERCIAL OR INDUSTRIAL DEVELOPMENT;**

12                   **(IV) JOB CREATION; OR**

13                   **(V) GENERATION OF TAX REVENUE.**

14 40A.

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

19                   **(I)** Baltimore City and is desired by this State or by the Mayor  
20 and City Council of Baltimore, the General Assembly may provide that such property  
21 may be taken immediately upon payment therefor to the owner or owners thereof by  
22 the State or by the Mayor and City Council of Baltimore, or into court, such amount as  
23 the State or the Mayor and City Council of Baltimore, as the case may be, shall  
24 estimate to be the fair value of said property, provided such legislation also requires  
25 the payment of any further sum that may subsequently be added by a jury; and  
26 further provided that the authority and procedure for the immediate taking of  
27 property as it applies to the Mayor and City Council of Baltimore on June 1, 1961,

1 shall remain in force and effect to and including June 1, 1963[, and where such  
2 property is situated in];

3 (II) Baltimore County and is desired by Baltimore County,  
4 Maryland, the County Council of Baltimore County, Maryland, may provide for the  
5 appointment of an appraiser or appraisers by a Court of Record to value such property  
6 and that upon payment of the amount of such evaluation, to the party entitled to  
7 compensation, or into Court, and securing the payment of any further sum that may  
8 be awarded by a jury, such property may be taken; and

9 (III) [where such property is situated in] Montgomery County  
10 and in the judgment of and upon a finding by the County Council of said County that  
11 there is immediate need therefor for right of way for County roads or streets, the  
12 County Council may provide that such property may be taken immediately upon  
13 payment therefor to the owner or owners thereof, or into court, such amount as a  
14 licensed real estate broker or a licensed and certified real estate appraiser appointed  
15 by the County Council shall estimate to be the fair market value of such property,  
16 provided that the Council shall secure the payment of any further sum that may  
17 subsequently be awarded by a jury.

18 (2) In the various municipal corporations within Cecil County, where  
19 in the judgment of and upon a finding by the governing body of said municipal  
20 corporation that there is immediate need therefor for right of way for municipal roads,  
21 streets and extension of municipal water and sewage facilities, the governing body  
22 may provide that such property may be taken immediately upon payment therefor to  
23 the owner or owners thereof, or into court, such amount as a licensed real estate  
24 broker appointed by the particular governing body shall estimate to be a fair market  
25 value of such property, provided that the municipal corporation shall secure the  
26 payment of any further sum that subsequently may be awarded by a jury.

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

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

32 (1) **“PUBLIC USE” MEANS:**

33 (I) **PUBLIC OWNERSHIP OR CONTROL;**

1                   **(II) USE FOR THE CREATION OR OPERATION OF A PUBLIC**  
 2 **SERVICE COMPANY, AS DEFINED BY LAW; OR**

3                   **(III) PHYSICAL USE OR ACCESS BY THE GENERAL PUBLIC;**  
 4 **AND**

5                   **(2) “PUBLIC USE” DOES NOT INCLUDE USE FOR ECONOMIC**  
 6 **DEVELOPMENT PURPOSES, INCLUDING:**

7                   **(I) URBAN RENEWAL;**

8                   **(II) COMMUNITY REVITALIZATION OR REDEVELOPMENT;**

9                   **(III) COMMERCIAL OR INDUSTRIAL DEVELOPMENT;**

10                  **(IV) JOB CREATION; OR**

11                  **(V) GENERATION OF TAX REVENUE.**

12 61.

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

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

28                   **[(2)] (II)** To sell, lease, convey, transfer or otherwise dispose of any of  
 29 said land or property, regardless of whether or not it has been developed, redeveloped,  
 30 altered or improved and irrespective of the manner or means in or by which it may

1 have been acquired, to any private, public or quasi public corporation, partnership,  
2 association, person or other legal entity.

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

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

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

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

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

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

1           (e)     The provisions of this section are independent of, and shall in no way  
2 affect, the powers granted under Article XIB of the Constitution of Maryland, title  
3 “City of Baltimore — Land Development and Redevelopment.” Also, the power  
4 provided in this section for the General Assembly to enact public local laws  
5 authorizing any municipal corporation or any county to carry out urban renewal  
6 projects prevails over the restrictions contained in Article 11A “Local Legislation” and  
7 in Article 11E “Municipal Corporations” of this Constitution.

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

12           SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section  
13 proposed as an amendment to the Maryland Constitution shall be submitted to the  
14 legal and qualified voters of this State at the next general election to be held in  
15 November, 2008 for their adoption or rejection pursuant to Article XIV of the  
16 Maryland Constitution. At that general election, the vote on this proposed amendment  
17 to the Constitution shall be by ballot, and upon each ballot there shall be printed the  
18 words “For the Constitutional Amendment” and “Against the Constitutional  
19 Amendment,” as now provided by law. Immediately after the election, all returns shall  
20 be made to the Governor of the vote for and against the proposed amendment, as  
21 directed by Article XIV of the Maryland Constitution, and further proceedings had in  
22 accordance with Article XIV.