

# SENATE BILL 937

L2, R2, M1

9lr3075

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By: **Senator Dyson**

Introduced and read first time: February 16, 2009

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 26, 2009

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Committee Report: Favorable

Senate action: Adopted

Read second time: April 1, 2009

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **St. Mary's County – Washington, Potomac and Chesapeake Railroad**  
3 **Company – Abandoned Right-of-Way – Protection**

4 FOR the purpose of prohibiting the State or a local government in the State from  
5 selling or disposing or otherwise allowing an encroachment of certain  
6 abandoned railroad corridor property in St. Mary's County; specifying an  
7 exception; defining a term; and generally relating to certain abandoned railroad  
8 corridor property in St. Mary's County.

9 BY repealing and reenacting, without amendments,  
10 Article – Natural Resources  
11 Section 5–1010  
12 Annotated Code of Maryland  
13 (2005 Replacement Volume and 2008 Supplement)

14 BY adding to  
15 Article – Natural Resources  
16 Section 5–1011  
17 Annotated Code of Maryland  
18 (2005 Replacement Volume and 2008 Supplement)

19 BY repealing and reenacting, without amendments,  
20 Article – Transportation  
21 Section 7–901  
22 Annotated Code of Maryland

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### 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 (2008 Replacement Volume)

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

4 **Article - Natural Resources**

5 5-1010.

6 (a) The General Assembly finds that:

7 (1) In order to provide the public with access to the use, enjoyment,  
8 and appreciation of the outdoor areas of Maryland, it is declared to be the public policy  
9 of this State to provide the means and procedures for establishing and expanding a  
10 network of recreational and scenic trails;

11 (2) Abandoned railroad corridor property is a unique source of land  
12 corridors that are, in many cases, suitable for recreational trails;

13 (3) Railroad corridor property is being abandoned at a high rate and is  
14 often sold in segments, thereby fragmenting the original corridors and leaving  
15 unconnected segments which may be suitable for acquisition for recreational trail use;

16 (4) The preservation of abandoned rail corridor property for use as  
17 recreational trails is in the public interest; and

18 (5) A systematic and continuing statewide program of acquiring  
19 abandoned railroad corridor property is needed to preserve this unique and  
20 irreplaceable source of recreational trails.

21 (b) (1) The Department shall maintain liaison with, provide factual data  
22 to, and work with the Department of Transportation, the State Railroad  
23 Administration, the Department of Planning, other agencies, and local governments to  
24 determine the suitability for trail purposes of railroad corridor property proposed for  
25 abandonment.

26 (2) The Department may conduct feasibility studies and appraisals of  
27 railroad corridor property proposed for abandonment.

28 (3) The Department may acquire railroad corridors pursuant to the  
29 National Trails Systems Act, 16 U.S.C. § 1241 et seq., as amended.

30 (c) (1) If, under the provisions of § 7-901 of the Transportation Article,  
31 the Department of Transportation acquires railroad corridor property considered  
32 suitable for use as recreational trails, the Department may request interim use of the  
33 property for public recreational use.

1           (2) The Department may lease a corridor from the Department of  
2 Transportation and sublease it to a local government subject to all the terms and  
3 conditions of the original lease.

4           (3) Any lease of railroad corridor property by the Department for  
5 interim use for public recreation shall be subject to restoration or reconstruction for  
6 railroad purposes, and the interim use may not be considered as an abandonment of  
7 the use of the railroad corridor for railroad purposes.

8           (4) Prior to undertaking the development of a railroad corridor  
9 property for recreational use the Department shall conduct a public hearing in the  
10 affected county. The hearing shall be advertised in a newspaper of general circulation  
11 in the affected county for 3 consecutive weeks.

12 **5-1011.**

13           **(A) IN THIS SECTION, "RAILROAD CORRIDOR PROPERTY" HAS THE**  
14 **MEANING STATED IN § 7-901 OF THE TRANSPORTATION ARTICLE.**

15           **(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE**  
16 **STATE OR A LOCAL GOVERNMENT IN THE STATE MAY NOT SELL OR OTHERWISE**  
17 **DISPOSE OF OR ALLOW AN ENCROACHMENT OF THE TRACT OF LAND IN ST.**  
18 **MARY'S COUNTY OWNED BY ST. MARY'S COUNTY THAT ENCOMPASSES THE**  
19 **ABANDONED RAILROAD CORRIDOR PROPERTY OF THE FORMER WASHINGTON,**  
20 **POTOMAC AND CHESAPEAKE RAILROAD COMPANY.**

21           **(C) THIS SECTION DOES NOT PROHIBIT THE STATE OR A LOCAL**  
22 **GOVERNMENT IN THE STATE FROM ALLOWING FOR INTERIM USE FOR PUBLIC**  
23 **RECREATION THE ABANDONED RAILROAD CORRIDOR PROPERTY OF THE**  
24 **FORMER WASHINGTON, POTOMAC AND CHESAPEAKE RAILROAD COMPANY.**

25 **Article - Transportation**

26 **7-901.**

27           (a) (1) In this section, "railroad corridor property" means any railroad  
28 property owned or maintained by a railroad company over which passenger or rail  
29 freight traffic moved from one destination to another, not to exceed 100 feet in width,  
30 and is or was subject to the Interstate Commerce Commission's abandonment process.

31           (2) "Railroad corridor property" does not include a rail yard, depot,  
32 station, or industrial park.

33           (b) (1) With the approval of the Board of Public Works, the Secretary or  
34 the Administration may acquire on behalf of this State, by gift, purchase, lease,  
35 condemnation, or otherwise, for any transportation related purpose, any railroad

1 corridor property that has been abandoned pursuant to action or regulations of the  
 2 Interstate Commerce Commission or other governing agency with jurisdiction in the  
 3 matter.

4 (2) Any condemnation proceeding under this section shall be  
 5 instituted and maintained in the name of this State and is governed by Title 12 of the  
 6 Real Property Article.

7 (c) If a railroad company intends to sell or otherwise dispose of any railroad  
 8 corridor property that is located in this State and for which the company has received  
 9 permission from the Interstate Commerce Commission or other governmental agency  
 10 with jurisdiction in the matter to abandon transportation services, the company shall  
 11 notify the Secretary and the Administration of its intent to sell or otherwise dispose of  
 12 the property.

13 (d) Within 120 days after the State receives a notice under subsection (c) of  
 14 this section, the State may respond to the railroad company and notify the company of  
 15 whether this State intends to acquire the railroad corridor property.

16 (e) If the State does not respond within the time required by subsection (d) of  
 17 this section or if the State notifies the railroad company that this State does not intend  
 18 to acquire the railroad corridor property, the railroad company:

19 (1) Is relieved of all responsibility to this State under this section; and

20 (2) May sell or otherwise dispose of this property in any manner it  
 21 considers appropriate.

22 (f) To be effective, all notifications provided for in this section shall be in  
 23 writing and mailed by certified mail, return receipt requested, bearing a postmark  
 24 from the United States Postal Service.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 26 October 1, 2009.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.