

SENATE BILL 819

D3, M3, P3
SB 9/1SS11 – SRU

2lr1466
CF HB 35

By: **Senators Pipkin, Brinkley, Colburn, Edwards, Glassman, Jacobs, and Shank**

Introduced and read first time: February 3, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Private Property Rights – Regulatory Infringement – Compensation**

3 FOR the purpose of giving an owner of private property a cause of action under certain
4 circumstances against the Department of Agriculture, the Department of the
5 Environment, the Department of Natural Resources, or the Department of
6 Planning if the application of a regulation adopted by the agency infringes on a
7 private property right; providing that the cause of action shall be filed in a
8 certain court; providing for the sum that a private property owner may recover
9 under a certain cause of action; requiring the award or judgment under a
10 certain cause of action to be paid from certain funds and prohibiting payment
11 from the General Fund; providing for the venue of a certain cause of action;
12 establishing a certain statute of limitations; providing for the application of this
13 Act; defining a certain term; and generally relating to the rights of private
14 property owners.

15 BY adding to

16 Article – Courts and Judicial Proceedings
17 Section 5–120
18 Annotated Code of Maryland
19 (2006 Replacement Volume and 2011 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article – Courts and Judicial Proceedings
22 Section 6–203(b)
23 Annotated Code of Maryland
24 (2006 Replacement Volume and 2011 Supplement)

25 BY adding to

26 Article – State Government

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 12–601 through 12–604 to be under the new subtitle “Subtitle 6.
Infringement on Private Property Rights”
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Courts and Judicial Proceedings

5–120.

AN ACTION FOR DAMAGES ARISING OUT OF THE APPLICATION OF A
REGULATION ADOPTED BY THE DEPARTMENT OF AGRICULTURE, THE
DEPARTMENT OF THE ENVIRONMENT, THE DEPARTMENT OF NATURAL
RESOURCES, OR THE DEPARTMENT OF PLANNING TO PRIVATE PROPERTY
UNDER TITLE 12, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE SHALL BE
FILED WITHIN 6 YEARS OF THE DATE ON WHICH THE REGULATION IS APPLIED
TO THE PRIVATE PROPERTY.

6–203.

(b) (1) The venue of the following actions is in the county where all or any
portion of the subject matter of the action is located:

- (i) Partition of real estate;
- (ii) Enforcement of a charge or lien on land;
- (iii) Eminent domain;
- (iv) Trespass to land; [and]
- (v) Waste; AND

**(VI) ANY ACTION UNDER TITLE 12, SUBTITLE 6 OF THE
STATE GOVERNMENT ARTICLE.**

(2) If the property lies in more than one county, the court where
proceedings are first brought has jurisdiction over the entire property.

Article – State Government

SUBTITLE 6. INFRINGEMENT ON PRIVATE PROPERTY RIGHTS.

12–601.

1 IN THIS SUBTITLE, “PRIVATE PROPERTY” MEANS ANY REAL PROPERTY IN
2 THE STATE OTHER THAN REAL PROPERTY OWNED BY A UNIT OF FEDERAL,
3 STATE, OR LOCAL GOVERNMENT.

4 12-602.

5 THIS SUBTITLE DOES NOT APPLY TO REGULATIONS ADOPTED BY THE
6 DEPARTMENT OF AGRICULTURE, THE DEPARTMENT OF THE ENVIRONMENT,
7 THE DEPARTMENT OF NATURAL RESOURCES, OR THE DEPARTMENT OF
8 PLANNING THAT ARE REQUIRED TO COMPLY WITH FEDERAL LAW.

9 12-603.

10 (A) THE OWNER OF PRIVATE PROPERTY HAS A CAUSE OF ACTION
11 AGAINST THE STATE IF THE APPLICATION OF A REGULATION ADOPTED ON OR
12 AFTER JUNE 1, 2012, BY THE DEPARTMENT OF AGRICULTURE, THE
13 DEPARTMENT OF THE ENVIRONMENT, THE DEPARTMENT OF NATURAL
14 RESOURCES, OR THE DEPARTMENT OF PLANNING RESTRICTS, LIMITS, OR
15 OTHERWISE INFRINGES ON A RIGHT TO THE PRIVATE PROPERTY THAT WOULD
16 EXIST ABSENT THE APPLICATION.

17 (B) AN ACTION UNDER THIS SUBTITLE SHALL BE FILED IN A CIRCUIT
18 COURT AS PROVIDED IN § 6-203 OF THE COURTS ARTICLE.

19 12-604.

20 (A) IN AN ACTION FILED UNDER THIS SUBTITLE, THE PROPERTY OWNER
21 MAY RECOVER:

22 (1) A SUM EQUAL TO THE DIMINUTION IN THE FAIR MARKET
23 VALUE OF THE PORTION OF THE PRIVATE PROPERTY AFFECTED BY THE
24 APPLICATION OF THE REGULATION THAT IS THE BASIS OF THE ACTION; AND

25 (2) COURT COSTS, REASONABLE ATTORNEY’S FEES, AND
26 REASONABLE EXPENSES.

27 (B) (1) AN AWARD OR JUDGMENT IN FAVOR OF A PROPERTY OWNER
28 MADE UNDER THIS SUBTITLE SHALL BE PAID OUT OF THE BUDGET OF THE
29 AGENCY RESPONSIBLE FOR ADOPTING THE REGULATION THAT IS THE BASIS OF
30 THE ACTION.

1 **(2) AN AWARD OR JUDGMENT IN FAVOR OF A PROPERTY OWNER**
2 **MADE UNDER THIS SUBTITLE MAY NOT BE PAID FROM THE GENERAL FUND OF**
3 **THE STATE.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 June 1, 2012.