

SENATE BILL 850

N1

(4lr2983)

ENROLLED BILL

— *Judicial Proceedings/Environmental Matters* —

Introduced by **Senator Conway**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Real Property – Prohibition on Acquiring Mortgages or Deeds of Trust by**
3 **Condemnation *and Related Study***

4 FOR the purpose of prohibiting the State or any of its instrumentalities or political
5 subdivisions from acquiring mortgages or deeds of trust by condemnation
6 during a certain period of time; requiring the Department of Housing and
7 Community Development to conduct a certain study; specifying the contents of
8 the study; requiring the Department to monitor certain developments; requiring
9 the Department to hold a certain minimum number of public hearings as part of
10 the study; requiring the Department to consult with certain persons in carrying
11 out the study; requiring the Department to report to the General Assembly on or
12 before a certain date; defining a certain term; and generally relating to
13 mortgages and condemnation.

14 BY repealing and reenacting, with amendments,

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.

Italics indicate opposite chamber/conference committee amendments.



1 Article – Real Property
 2 Section 12–101
 3 Annotated Code of Maryland
 4 (2010 Replacement Volume and 2013 Supplement)

5 ~~Preamble~~

6 ~~WHEREAS, Proposals have been made in Maryland and other states for local~~
 7 ~~governments to use their powers of eminent domain to acquire mortgages at~~
 8 ~~discounted values for the purpose of restructuring mortgage loan contracts and selling~~
 9 ~~the loans at a premium; and~~

10 ~~WHEREAS, The use of eminent domain to acquire mortgages undermines the~~
 11 ~~sanctity of the contractual relationship between a borrower and a creditor; and~~

12 ~~WHEREAS, The Federal Housing Finance Agency and the U.S. Department of~~
 13 ~~Housing and Urban Development have expressed serious concerns that the use of~~
 14 ~~eminent domain to acquire mortgages, including mortgages whose underlying~~
 15 ~~collateral values are less than the principals of the loans secured by the mortgages,~~
 16 ~~would create great uncertainty for lenders and investors in the mortgage market; and~~

17 ~~WHEREAS, Such uncertainty in the mortgage market could result in increased~~
 18 ~~costs of credit to borrowers seeking to become homeowners, a contraction in credit in~~
 19 ~~the communities where mortgages are acquired by eminent domain, and a reduced~~
 20 ~~demand for housing that artificially depresses home values and lowers local tax bases;~~
 21 ~~now, therefore,~~

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

24 **Article – Real Property**

25 12–101.

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

29 (B) Nothing in this title prevents this State or any of its instrumentalities or
 30 political subdivisions, acting under statute or ordinance passed pursuant to Article III
 31 of the Maryland Constitution, from taking private property for public use immediately
 32 on making the required payment and giving any required security.

33 (C) [In addition, this] **THIS** title does not prevent the State Roads
 34 Commission from using the procedures set forth in Title 8, Subtitle 3 of the
 35 Transportation Article, or prevent Baltimore City from using the procedure set forth

1 in the Charter of Baltimore City and §§ 21–12 through 21–22, inclusive, of the Public
2 Local Laws of Baltimore City.

3 (D) NOTWITHSTANDING ANY OTHER LAW, FROM JUNE 1, 2014, TO MAY
4 30, 2016, BOTH INCLUSIVE, THE STATE OR ANY OF ITS INSTRUMENTALITIES OR
5 POLITICAL SUBDIVISIONS MAY NOT ACQUIRE A MORTGAGE OR DEED OF TRUST
6 BY CONDEMNATION.

7 SECTION 2. AND BE IT FURTHER ENACTED, That:

8 (a) In this section, “Department” means the Department of Housing and
9 Community Development.

10 (b) The Department shall conduct a study of ways of restoring equity for
11 underwater homeowners with private label securities.

12 (c) The study shall identify and evaluate methods, including the use of
13 eminent domain by local governments, for restoring equity to homeowners with private
14 label securities in their mortgages who have been unable to obtain mortgage loan
15 modifications that would allow the homeowners to keep their homes.

16 (d) In conducting the study required by this section, the Department shall:

17 (1) monitor the development of and legal challenges to the use of
18 eminent domain to assist underwater homeowners in other parts of the country;

19 (2) hold a minimum of two public hearings; and

20 (3) consult, as appropriate, with:

21 (i) housing counselors;

22 (ii) State and local elected officials;

23 (iii) local housing departments;

24 (iv) local government legal counselors;

25 (v) homeowners and their advocates;

26 (vi) civil rights and community organizations;

27 (vii) legal experts; and

28 (viii) any other stakeholders identified by the Department.

1 (e) On or before November 1, 2015, the Department shall report to the General
 2 Assembly, in accordance with § 2-1246 of the State Government Article, on the results
 3 of the study required under this section and on any recommendations the Department
 4 has on ways of restoring equity to underwater homeowners with private label securities.

5 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
 6 effect ~~October~~ June 1, 2014.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.