

Chapter 561

(Senate Bill 850)

AN ACT concerning

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

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

BY repealing and reenacting, with amendments,
Article – Real Property
Section 12–101
Annotated Code of Maryland
(2010 Replacement Volume and 2013 Supplement)

Preamble

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

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

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

~~WHEREAS, Such uncertainty in the mortgage market could result in increased costs of credit to borrowers seeking to become homeowners, a contraction in credit in the communities where mortgages are acquired by eminent domain, and a reduced~~

~~demand for housing that artificially depresses home values and lowers local tax bases; now, therefore,~~

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

Article – Real Property

12–101.

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

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

(C) [In addition, this] **THIS** title does not prevent the State Roads Commission from using the procedures set forth in Title 8, Subtitle 3 of the Transportation Article, or prevent Baltimore City from using the procedure set forth in the Charter of Baltimore City and §§ 21–12 through 21–22, inclusive, of the Public Local Laws of Baltimore City.

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

SECTION 2. AND BE IT FURTHER ENACTED, That:

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

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

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

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

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

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

(3) consult, as appropriate, with:

(i) housing counselors;

(ii) State and local elected officials;

(iii) local housing departments;

(iv) local government legal counselors;

(v) homeowners and their advocates;

(vi) civil rights and community organizations;

(vii) legal experts; and

(viii) any other stakeholders identified by the Department.

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

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

Approved by the Governor, May 15, 2014.