

HOUSE BILL 81

N1, M4, C5

(PRE-FILED)

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CF 5lr1404

By: **Delegates Mangione, Arentz, Chisholm, Grammer, Guyton, Hartman, R. Long, Miller, T. Morgan, Nawrocki, Rose, Schmidt, Szeliga, and Tomlinson**

Requested: August 13, 2024

Introduced and read first time: January 8, 2025

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Condemnation – Compensation for Farm and Agricultural**
3 **Property**
4 **(Protect Maryland Farm Lands Act)**

5 FOR the purpose of requiring the fair market value of certain agricultural property taken
6 in a condemnation proceeding to be valued at a certain percentage of the highest
7 appraisal value of the property; providing for the retroactive application of this Act;
8 and generally relating to the fair market value of agricultural property in
9 condemnation proceedings.

10 BY repealing and reenacting, with amendments,
11 Article – Real Property
12 Section 12–105
13 Annotated Code of Maryland
14 (2023 Replacement Volume and 2024 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article – Tax – Property
17 Section 8–209
18 Annotated Code of Maryland
19 (2019 Replacement Volume and 2024 Supplement)

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

22 **Article – Real Property**

23 12–105.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) In this section, the phrase “the effective date of legislative authority for the
2 acquisition of the property” means, with respect to a condemnor vested with continuing
3 power of condemnation, the date of specific administrative determination to acquire the
4 property.

5 (b) **(1) (I) [The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,**
6 **THE** fair market value of property in a condemnation proceeding is the price as of the
7 valuation date for the highest and best use of the property which a vendor, willing but not
8 obligated to sell, would accept for the property, and which a purchaser, willing but not
9 obligated to buy, would pay, excluding any increment in value proximately caused by the
10 public project for which the property condemned is needed. [In addition, fair]

11 **(II) FAIR** market value includes any amount by which the price
12 reflects a diminution in value occurring between the effective date of legislative authority
13 for the acquisition of the property and the date of actual taking if the trier of facts finds
14 that the diminution in value was proximately caused by the public project for which the
15 property condemned is needed, or by announcements or acts of the plaintiff or its officials
16 concerning the public project, and was beyond the reasonable control of the property owner.

17 **(2) (I) THIS PARAGRAPH APPLIES ONLY TO PROPERTY THAT IS**
18 **ACTIVELY USED FOR FARM OR AGRICULTURAL PURPOSES AS DETERMINED BY THE**
19 **STATE DEPARTMENT OF ASSESSMENTS AND TAXATION UNDER § 8-209 OF THE**
20 **TAX – PROPERTY ARTICLE, INCLUDING PROPERTY ACQUIRED BY CONDEMNATION**
21 **FOR THE CONSTRUCTION OR MAINTENANCE OF A TRANSMISSION LINE UNDER §§**
22 **7-207 AND 7-208 OF THE PUBLIC UTILITIES ARTICLE.**

23 **(II) THE FAIR MARKET VALUE OF PROPERTY ACTIVELY USED**
24 **FOR FARM OR AGRICULTURAL PURPOSES IN A CONDEMNATION PROCEEDING SHALL**
25 **BE 350% OF THE HIGHEST APPRAISAL VALUE OF THE PROPERTY.**

26 (c) The defendant property owner may elect to present as evidence in a
27 condemnation proceeding, the assessed value of the property, as determined by the
28 Department of Assessments and Taxation, if the assessed value is greater than the
29 appraised value placed on the property by the condemning authority.

30 (d) **(1) [If] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
31 **SUBSECTION, IF** property is ever acquired by the exercise of the power of eminent domain,
32 the fair market value of the property is not affected by the property having been qualified
33 for a tax credit under § 9-208 of the Tax – Property Article. [However, if]

34 **(2) IF** the grantee of an easement purchased the easement for monetary
35 consideration other than, or in addition to, the tax credit under § 9-208 of the
36 Tax – Property Article, then the condemnation award shall be reduced by an amount equal
37 to the additional consideration.

Article – Tax – Property

8–209.

(a) The General Assembly declares that it is in the general public interest of the State to foster and encourage farming activities to:

(1) maintain a readily available source of food and dairy products close to the metropolitan areas of the State;

(2) encourage the preservation of open space as an amenity necessary for human welfare and happiness; and

(3) prevent the forced conversion of open space land to more intensive uses because of the economic pressures caused by the assessment of the land at rates or levels incompatible with its practical use for farming.

(b) It is the intention of the General Assembly that the assessment of farmland:

(1) be maintained at levels compatible with the continued use of the land for farming; and

(2) not be affected adversely by neighboring land uses of a more intensive nature.

(c) Land that is actively used for farm or agricultural use shall be valued on the basis of that use and may not be valued as if subdivided.

(d) Land that is valued under subsection (c) of this section shall be assessed on the basis of its use value.

(e) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Agrivoltaics” has the meaning stated in § 7–237 of this article.

(iii) “Community solar energy generating system” has the meaning stated in § 7–306.2 of the Public Utilities Article.

(2) Except as provided in paragraph (4) of this subsection, the Department shall establish in regulations criteria to determine if land that appears to be actively used for farm or agricultural purposes:

(i) is actually used for farm or agricultural purposes; and

(ii) qualifies for assessment under this section.

- 1 (3) The criteria shall include:
- 2 (i) the zoning of the land;
- 3 (ii) the present and past use of the land including land under the Soil
4 Bank Program of the United States;
- 5 (iii) the productivity of the land, including timberlands and
6 reforested lands; and
- 7 (iv) the gross income that is derived from the agricultural activity.
- 8 (4) (i) This paragraph applies through the life cycle of a community
9 solar energy generating system that:
- 10 1. is placed in service after June 30, 2022; and
- 11 2. has been approved on or before December 31, 2025, as a
12 community solar energy generating system by the Public Service Commission under §
13 7–306.2 of the Public Utilities Article.
- 14 (ii) The Department shall assess and qualify land that is used by a
15 community solar energy generating system for agrivoltaics as land that is actively used for
16 farm or agricultural purposes.
- 17 (f) In administering this section, periodically, the Director shall consult with:
- 18 (1) the Secretary of Agriculture;
- 19 (2) officials of the State who are knowledgeable in agriculture;
- 20 (3) representatives of the agricultural community;
- 21 (4) officials of counties and municipal corporations; and
- 22 (5) other persons as determined by the Director.
- 23 (g) (1) In this subsection the following words have the meanings indicated:
- 24 (i) “actively used” means land that is actually and primarily used
25 for a continuing farm or agricultural use;
- 26 (ii) “agricultural land unit” means the combination of not more than
27 3 parcels of land when the parcels are:
- 28 1. located in the same county; and

1 2. under the same ownership;

2 (iii) “average gross income” means the average of the 2 highest years
3 of gross income during a 3-year period;

4 (iv) “family farm unit” means not more than 1 parcel of land of less
5 than 20 acres for each immediate family member for land that is:

6 1. contiguous to land receiving the farm or agricultural use
7 assessment; and

8 2. owned by a member or members of the immediate family
9 of the owner of the farm or agricultural use land; and

10 (v) “gross income” means the actual income that is received in a
11 calendar year that results directly from the farm or agricultural use of the land.

12 (2) In determining if a parcel of land of less than 20 acres, or not zoned for
13 agricultural use, is actively used, the Department may require the owner of the land to
14 affirm, under oath, on a standard form provided by the Department that the farm or
15 agricultural use of the land results in an average gross income of at least \$2,500 from the
16 parcel or the agricultural land unit.

17 (3) The Department may require an owner who submits an affirmation
18 under paragraph (2) of this subsection to verify the gross income from the land by providing:

19 (i) copies of sales receipts or invoices;

20 (ii) lease agreements; or

21 (iii) other documents required by the Department.

22 (4) An affirmation under paragraph (2) of this subsection shall be filed
23 before July 1 of the taxable year.

24 (5) If land that appears to be actively used does not yield an average gross
25 income of \$2,500, the Director shall waive the gross income requirement on finding that:

26 (i) the land is leased and the nature of the farm or agricultural use
27 of the land when related to the amount of the land in farm or agricultural use reasonably
28 would be expected to yield an average gross income of at least \$2,500;

29 (ii) the nature of the farm or agricultural use of the land and the
30 amount of the land in farm or agricultural use reasonably would be expected to yield an
31 average gross income of at least \$2,500 from the agricultural products, if sold, that are
32 derived from the use of the land;

1 (iii) a drought or other natural cause has adversely affected the
2 income-producing capability of the land during a 3-year period; or

3 (iv) for a newly established farm or agricultural use, the nature of
4 the use and the amount of the land in farm or agricultural use reasonably would be expected
5 to yield an average gross income of at least \$2,500 if the use had existed for a 3-year period.

6 (6) The Director may grant only the following additional waivers:

7 (i) under paragraph (5)(iii) of this subsection, for 1 additional
8 consecutive 3-year period; and

9 (ii) under paragraph (5)(iv) of this subsection, for 1 additional
10 consecutive 3-year period.

11 (7) The gross income requirement of paragraph (2) of this subsection does
12 not apply if the land is actively used as a family farm unit.

13 (8) For purposes of qualifying for the agricultural use assessment under
14 this section, the following real property is deemed to be a single contiguous parcel:

15 (i) parcels that are created or separated by roads, easements, or
16 other rights-of-way; and

17 (ii) land relating to a right-of-way that reverts back to its owner's
18 use for purposes of farming.

19 (h) (1) Subject to paragraph (2) of this subsection, the following land does not
20 qualify to be assessed under this section:

21 (i) land rezoned to a more intensive use than the use that
22 immediately preceded the rezoning, if a person with an ownership interest in the land has
23 applied for or requested the rezoning;

24 (ii) land used as a homesite, which means the area of land that is
25 reasonably related to a dwelling;

26 (iii) parcels of land of less than 3 acres that are under the same
27 ownership excluding the homesite unless:

28 1. the land is owned by an owner of adjoining land that is
29 receiving the farm or agricultural use assessment and is actively used;

30 2. the owner receives at least 51% of the owner's gross
31 income from the active use; or

32 3. the parcels are part of a family farm unit;

1 (iv) if part of a subdivision plat, parcels of land of less than 10 acres
2 that are owned by an owner of 5 other parcels of land of less than 10 acres each that are
3 located in the same county and that are receiving the farm or agricultural use assessment;

4 (v) parcels of woodland of less than 5 acres excluding the homesite;
5 or

6 (vi) land that fails to meet the gross income requirement of
7 subsection (g) of this section.

8 (2) No more than 2 parcels of less than 3 acres under the same ownership
9 may qualify for the agricultural use assessment.

10 (i) (1) (i) In this subsection the following words have the meanings
11 indicated.

12 (ii) "Surviving spouse" means the surviving spouse of the property
13 owner who applied for the waiver under this subsection if the surviving spouse has not
14 remarried and had a legal interest in the property at the time of the application for the
15 waiver.

16 (iii) "3-year cycle" has the meaning stated in § 8-103 of this title.

17 (2) The Director may grant a waiver from the requirements of subsection
18 (e) or (g) of this section if:

19 (i) the property owner is at least 70 years of age;

20 (ii) the property owner applies to the Department for a waiver of the
21 requirements of either subsection (e) or (g) of this section;

22 (iii) the land has not changed ownership during the two previous
23 3-year cycles; and

24 (iv) the land has been assessed for at least the two previous 3-year
25 cycles on the basis of farm or agricultural use under the law or regulations of the
26 Department that were in effect as of the date of the application.

27 (3) The Director may grant a waiver from the requirements of subsection
28 (e) or (g) of this section if:

29 (i) the property owner becomes disabled and is unable to continue
30 the farm or agricultural use of the land;

31 (ii) the property owner applies to the Department for a waiver of the
32 requirements of either subsection (e) or (g) of this section;

1 (iii) the property owner engaged in farm or agricultural use activities
2 on the land prior to the disability; and

3 (iv) the land has been assessed for at least the two previous 3-year
4 cycles on the basis of farm or agricultural use under the law or regulations of the
5 Department that were in effect as of the date of the application.

6 (4) Any waiver granted under this subsection shall be in effect until:

7 (i) the transfer of the property; or

8 (ii) the later of the death of the property owner who received the
9 waiver or the death of the surviving spouse.

10 (5) The Department may adopt regulations to carry out the provisions of
11 this subsection.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
13 apply retroactively and shall be applied to and interpreted to affect any condemnation
14 proceeding initiated on or after January 1, 2024.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2025.