

# HOUSE BILL 1396

C5, N1

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CF SB 737

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By: **Delegates Rose, Pippy, Adams, Arentz, Baker, Beauchamp, Bouchat, Buckel, Chisholm, Ghrist, Grammer, Griffith, Hartman, Hinebaugh, Hornberger, Hutchinson, Jacobs, Kipke, Mangione, McComas, Metzgar, Miller, T. Morgan, Nkongolo, Otto, Reilly, Schmidt, Stonko, Tomlinson, and Valentine**

Introduced and read first time: February 7, 2025

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Property Rights Protection Act of 2025**

3 FOR the purpose of prohibiting certain persons from exercising a right of condemnation to  
4 acquire property for the purpose of constructing a power line or a certain generating  
5 station; prohibiting the State or any of its instrumentalities or political subdivisions  
6 from acquiring by condemnation property that is encumbered by certain  
7 conservation easements or will be used for the construction of a power line or a  
8 certain generating station; and generally relating to restrictions on a right of  
9 condemnation to acquire property.

10 BY repealing and reenacting, with amendments,  
11 Article – Public Utilities  
12 Section 7–103, 7–207(b), and 7–208(b)  
13 Annotated Code of Maryland  
14 (2020 Replacement Volume and 2024 Supplement)

15 BY repealing and reenacting, without amendments,  
16 Article – Public Utilities  
17 Section 7–207.1(b)  
18 Annotated Code of Maryland  
19 (2020 Replacement Volume and 2024 Supplement)

20 BY adding to  
21 Article – Public Utilities  
22 Section 7–207.1(h)  
23 Annotated Code of Maryland  
24 (2020 Replacement Volume and 2024 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,  
2 Article – Real Property  
3 Section 10–705(a)(1) and (2) and 12–101(a)  
4 Annotated Code of Maryland  
5 (2023 Replacement Volume and 2024 Supplement)

6 BY adding to  
7 Article – Real Property  
8 Section 12–101(e)  
9 Annotated Code of Maryland  
10 (2023 Replacement Volume and 2024 Supplement)

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

13 **Article – Public Utilities**

14 7–103.

15 (a) An electric company incorporated in Maryland may:

16 (1) manufacture, sell, and furnish electric power in any municipal  
17 corporation or county of the State;

18 (2) construct a power line to transmit power under, along, on, or over the  
19 roadways or public ways of any municipal corporation or county of the State; and

20 (3) connect the power line from the place of supply to any other structure  
21 or object.

22 (b) (1) An electric company must have the consent of the governing body of the  
23 municipal corporation or county before laying or constructing any power line in accordance  
24 with subsection (a) of this section.

25 (2) The governing body of the municipal corporation or county may adopt  
26 reasonable regulations and conditions for the laying of a power line, including regulations  
27 requiring the electric company to refill and repave any roadway or public way under which  
28 the power line is laid.

29 **(C) AN ELECTRIC COMPANY MAY NOT EXERCISE A RIGHT OF**  
30 **CONDEMNATION TO ACQUIRE PROPERTY FOR THE CONSTRUCTION OF A POWER LINE**  
31 **IN ACCORDANCE WITH THIS SECTION.**

32 7–207.

1 (b) (1) (i) Unless a certificate of public convenience and necessity for the  
2 construction is first obtained from the Commission, a person may not begin construction in  
3 the State of:

4 1. a generating station; or

5 2. a qualified generator lead line.

6 (ii) If a person obtains Commission approval for construction under  
7 § 7-207.1 of this subtitle, the Commission shall exempt a person from the requirement to  
8 obtain a certificate of public convenience and necessity under this section.

9 (iii) Notwithstanding subparagraph (i) of this paragraph, a person  
10 may not apply to obtain a certificate of public convenience and necessity for construction of  
11 a qualified generator lead line unless:

12 1. at least 90 days before the filing of an application for a  
13 certificate of public convenience and necessity, the person had in good faith offered the  
14 electric company that owns that portion of the electric grid in Maryland to which the  
15 qualified generator lead line would interconnect a full and fair opportunity for the electric  
16 company to construct the qualified generator lead line; and

17 2. at any time at least 10 days before the filing of an  
18 application for a certificate of public convenience and necessity, the electric company:

19 A. did not accept from the person a proposal or a negotiated  
20 version of the proposal under which the electric company would construct the qualified  
21 generator lead line; or

22 B. stated in writing that the electric company did not intend  
23 to construct the qualified generator lead line.

24 (2) (I) [Unless] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF**  
25 **THIS PARAGRAPH, UNLESS** a certificate of public convenience and necessity for the  
26 construction is first obtained from the Commission, and the Commission has found that the  
27 capacity is necessary to ensure a sufficient supply of electricity to customers in the State, a  
28 person may not exercise a right of condemnation in connection with the construction of a  
29 generating station.

30 (II) **A PERSON MAY NOT EXERCISE A RIGHT OF CONDEMNATION**  
31 **TO ACQUIRE PROPERTY FOR THE PURPOSE OF CONSTRUCTING A GENERATING**  
32 **STATION THAT PRODUCES ELECTRICITY FROM WIND ENERGY OR SOLAR ENERGY.**

33 (3) (i) Except as provided in paragraph (4) of this subsection, unless a  
34 certificate of public convenience and necessity for the construction is first obtained from the  
35 Commission, a person may not begin construction of an overhead transmission line that is

1 designed to carry a voltage in excess of 69,000 volts [or exercise a right of condemnation  
2 with the construction].

3 (ii) For construction related to an existing overhead transmission  
4 line, the Commission may waive the requirement in subparagraph (i) of this paragraph for  
5 good cause.

6 (iii) Notwithstanding subparagraph (i) of this paragraph and subject  
7 to subparagraph (iv) of this paragraph, the Commission may issue a certificate of public  
8 convenience and necessity for the construction of an overhead transmission line only if the  
9 applicant for the certificate of public convenience and necessity:

10 1. is an electric company; or

11 2. is or, on the start of commercial operation of the overhead  
12 transmission line, will be subject to regulation as a public utility by an officer or an agency  
13 of the United States.

14 (iv) The Commission may not issue a certificate of public convenience  
15 and necessity for the construction of an overhead transmission line in the electric  
16 distribution service territory of an electric company to an applicant other than an electric  
17 company if:

18 1. the overhead transmission line is to be located solely  
19 within the electric distribution service territory of that electric company; and

20 2. the cost of the overhead transmission line is to be paid  
21 solely by that electric company and its ratepayers.

22 [(v) 1. This subparagraph applies to the construction of an  
23 overhead transmission line for which a certificate of public convenience and necessity is  
24 required under this section.

25 2. On issuance of a certificate of public convenience and  
26 necessity for the construction of an overhead transmission line, a person may acquire by  
27 condemnation, in accordance with Title 12 of the Real Property Article, any property or  
28 right necessary for the construction or maintenance of the transmission line.]

29 (4) (i) Except as provided in subparagraph (ii) of this paragraph, for  
30 construction related to an existing overhead transmission line designed to carry a voltage  
31 in excess of 69,000 volts, the Commission shall waive the requirement to obtain a certificate  
32 of public convenience and necessity if the Commission finds that the construction does not[:

33 1. require the person to obtain new real property or  
34 additional rights-of-way through eminent domain; or

1                   2.]     require larger or higher structures to accommodate:

2                   [A.] 1.       increased voltage; or

3                   [B.] 2.       larger conductors.

4                   (ii) 1.     For construction related to an existing overhead  
5 transmission line, including repairs, that is necessary to avoid an imminent safety hazard  
6 or reliability risk, a person may undertake the necessary construction.

7                   2.     Within 30 days after construction is completed under  
8 subsubparagraph 1 of this subparagraph, a person shall file a report with the Commission  
9 describing the work that was completed.

10 7–207.1.

11           (b)     This section applies to a person who:

12                   (1)     constructs a generating station:

13                   (i)     designed to provide on–site generated electricity if:

14                   1.     the capacity of the generating station does not exceed 70  
15 megawatts; and

16                   2.     the electricity that may be exported for sale from the  
17 generating station to the electric system is sold only on the wholesale market pursuant to  
18 an interconnection, operation, and maintenance agreement with the local electric company;  
19 or

20                   (ii)    that produces electricity from wind if:

21                   1.     the generating station is land–based;

22                   2.     the capacity of the generating station does not exceed 70  
23 megawatts;

24                   3.     the electricity that may be exported for sale from the  
25 generating station to the electric system is sold only on the wholesale market pursuant to  
26 an interconnection, operation, and maintenance agreement with the local electric company;

27                   4.     the Commission provides an opportunity for public  
28 comment at a public hearing as provided in subsection (g) of this section; and

29                   5.     the generating station’s wind turbines are not located  
30 within a distance from the Patuxent River Naval Air Station that is determined by  
31 regulations adopted by the Commission in coordination with the Commander, Naval Air



1 10-705.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) "Conservation easement" means an easement, covenant, restriction, or  
4 condition on real property, including an amendment to an easement, covenant, restriction,  
5 or condition, as provided for in § 2-118 of this article that is:

6 (i) Owned by:

7 1. The Maryland Environmental Trust;

8 2. The Maryland Historical Trust;

9 3. The Maryland Agricultural Land Preservation  
10 Foundation;

11 4. The Maryland Department of Natural Resources;

12 5. A county or municipal corporation and is funded by the  
13 Maryland Department of Natural Resources, the Rural Legacy Program, or a local  
14 agricultural preservation program; or

15 6. A land trust; or

16 (ii) Required by a permit issued by the Department of the  
17 Environment.

18 12-101.

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

22 **(E) NOTWITHSTANDING ANY OTHER LAW, THE STATE OR ANY OF ITS**  
23 **INSTRUMENTALITIES OR POLITICAL SUBDIVISIONS MAY NOT ACQUIRE BY**  
24 **CONDEMNATION A PROPERTY THAT:**

25 **(1) IS ENCUMBERED BY A CONSERVATION EASEMENT AS DEFINED**  
26 **UNDER § 10-705(A) OF THIS ARTICLE; OR**

27 **(2) WILL BE USED FOR THE CONSTRUCTION OF A POWER LINE OR A**  
28 **GENERATING STATION THAT PRODUCES ELECTRICITY FROM WIND ENERGY OR**  
29 **SOLAR ENERGY.**

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2025.