

SENATE BILL 737

C5, N1

5lr3522
CF 5lr1860

By: **Senator Folden**

Introduced and read first time: January 27, 2025

Assigned to: Education, Energy, and the Environment

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)

25 BY repealing and reenacting, without amendments,
26 Article – Real Property
27 Section 10–705(a)(1) and (2) and 12–101(a)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2023 Replacement Volume and 2024 Supplement)

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

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

10 **Article – Public Utilities**

11 7–103.

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

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

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

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

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

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

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

29 7–207.

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

33 1. a generating station; or

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

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

8 1. is an electric company; or

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

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

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

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

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

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

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

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

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

34 [A.] 1. increased voltage; or

1 [B.] 2. larger conductors.

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

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

8 7–207.1.

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

10 (1) constructs a generating station:

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

12 1. the capacity of the generating station does not exceed 70
13 megawatts; and

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

18 (ii) that produces electricity from wind if:

19 1. the generating station is land–based;

20 2. the capacity of the generating station does not exceed 70
21 megawatts;

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

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

27 5. the generating station’s wind turbines are not located
28 within a distance from the Patuxent River Naval Air Station that is determined by
29 regulations adopted by the Commission in coordination with the Commander, Naval Air
30 Warfare Center Aircraft Division, provided that the distance requirement under the
31 regulation is:

1 (2) “Conservation easement” means an easement, covenant, restriction, or
2 condition on real property, including an amendment to an easement, covenant, restriction,
3 or condition, as provided for in § 2–118 of this article that is:

4 (i) Owned by:

5 1. The Maryland Environmental Trust;

6 2. The Maryland Historical Trust;

7 3. The Maryland Agricultural Land Preservation
8 Foundation;

9 4. The Maryland Department of Natural Resources;

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

13 6. A land trust; or

14 (ii) Required by a permit issued by the Department of the
15 Environment.

16 12–101.

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

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

23 **(1) IS ENCUMBERED BY A CONSERVATION EASEMENT AS DEFINED**
24 **UNDER § 10–705(A) OF THIS ARTICLE; OR**

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

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