

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 81

(Delegate Mangione, *et al.*)

Economic Matters

Real Property - Condemnation - Compensation for Farm and Agricultural
Property (Protect Maryland Farm Lands Act)

This bill, under Title 12 (“Eminent Domain”) of the Real Property Article, requires that the fair market value of property actively used for farm or agricultural purposes in a condemnation proceeding be 350% of the highest appraisal value of the property. The bill applies only to property that is actively used for farm or agricultural purposes as determined by the State Department of Assessments and Taxation (SDAT), including property acquired by condemnation for the construction or maintenance of a transmission line. **The bill applies retroactively and must be applied to and interpreted to affect any condemnation proceeding initiated on or after January 1, 2024.**

Fiscal Summary

State Effect: Costs of State capital projects may increase, resulting either in increased overall State capital expenditures or delay/canceling of other capital projects, as discussed below. Revenues are not expected to be materially affected.

Local Effect: Similar to above, costs of local government capital projects may increase, as discussed below. Revenues are not expected to be materially affected.

Small Business Effect: Meaningful.

Analysis

Current Law:

Eminent Domain

The power to take, or condemn, private property for public use is one of the inherent powers of state government and, through the state, its political subdivisions. Courts have long held that this power, known as “eminent domain,” is derived from the sovereignty of the state. Both the federal and State constitutions limit the condemnation authority. Both constitutions establish two requirements for taking property through the power of eminent domain: (1) the property taken must be for a “public use” and (2) the party whose property is taken must receive “just compensation,” which may not be less than the fair market value of the real property. In either event, the party whose property is being taken is generally entitled to a judicial proceeding prior to the taking of the property. However, the Maryland Constitution does authorize “quick-take” condemnations in limited circumstances prior to a court proceeding.

Under Title 12, Chapter 200, of the Maryland Rules, which governs court actions for acquisition of property by condemnation under the power of eminent domain, a complaint filed in an action for condemnation must contain, among other things:

- the names of all persons whose interest in the property is sought to be condemned;
- a description of the property;
- a statement of the nature of the interest the plaintiff seeks to acquire by the proposed condemnation;
- a statement that there is a public necessity for the proposed condemnation; and
- a statement that the parties are unable to agree or that a defendant is unable to agree because the defendant is unknown or under legal disability.

Fair Market Value

Title 12 of the Real Property Article establishes that the fair market value of property in a condemnation proceeding is the price as of the valuation date for the highest and best use of the property which a vendor, willing but not obligated to sell, would accept for the property, and which a purchaser, willing but not obligated to buy, would pay, excluding any increment in value proximately caused by the public project for which the property condemned is needed.

In addition, fair market value includes any amount by which the price reflects a diminution in value occurring between the effective date of legislative authority for the acquisition of the property and the date of actual taking if the trier of facts finds that the diminution in

value was proximately caused by the public project for which the property condemned is needed, or by announcements or acts of the plaintiff or its officials concerning the public project, and was beyond the reasonable control of the property owner.

In a condemnation proceeding, the defendant property owner may elect to present as evidence, the assessed value of the property, as determined by SDAT, if the assessed value is greater than the appraised value placed on the property by the condemning authority.

Overhead Transmission Lines – Condemnation

Under § 7-207 of the Public Utilities Article, unless a certificate of public convenience and necessity (CPCN) for the construction is first obtained from the Public Service Commission (PSC), a person may not begin construction of an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts or exercise a right of condemnation with the construction. However, a person that has received a CPCN from PSC for the construction of an overhead transmission line may acquire by condemnation, in accordance with Title 12 of the Real Property Article, any property or right necessary for the construction or maintenance of the transmission line.

State and Local Expenditures: Costs of State and/or local government capital projects increase to the extent projects require access or other property rights (*e.g.*, an easement for utility infrastructure) on property actively used for farm or agricultural purposes. The increased costs are due to the need to pay the fair market value established by the bill (350% of the highest appraisal value in a condemnation proceeding or a potentially similar negotiated price) in place of compensation otherwise paid, under current law, through negotiation or condemnation.

Any such increased costs either increase overall State and/or local capital expenditures or result in delay or canceling of other capital projects.

The extent of any impact on State or local capital expenditures or other capital projects cannot be reliably estimated but it appears that any direct impacts likely occur infrequently. The Maryland Department of Agriculture indicates, for example, that historically there have been very few instances of easement property held by the Maryland Agricultural Land Preservation Foundation (MALPF) (which is land in active agricultural use) being taken through eminent domain. (MALPF, with the assistance and cooperation of landowners and local governments, purchases development rights easements as a means of protecting agricultural land and woodland production activities.)

Small Business Effect: Small businesses that own property actively used for farm or agricultural purposes and on which property rights are condemned (or granted, through negotiation) for public use are meaningfully positively impacted by the receipt of higher compensation (350% of the highest appraisal value of the property, in a condemnation proceeding) than under current law.

Additional Comments: If the bill affects the overall cost of acquiring property rights in order for the Maryland Piedmont Reliability Project (MPRP) (described below) to cross lands that are actively used for farm or agricultural purposes, it presumably increases costs of the project; however, the extent to which any such impact may ultimately impact electricity prices (PSC advises that costs of transmission projects ultimately are passed on through electricity prices), including those paid by State and local government, cannot be reliably estimated.

MPRP is an approximately 67-mile high-voltage electricity transmission line proposed to be constructed across portions of Baltimore, Carroll, and Frederick counties. PSEG Renewable Transmission LLC filed an application for a CPCN for the project with PSC on December 31, 2024 ([MailLog # 314555](#)).

The project's application materials indicate that it will require temporary easements (for construction and maintenance phases) and permanent easements (for the permanent structures and facilities) along the project's route. As mentioned above, § 7-207 of the Public Utilities Article authorizes a person who has been issued a CPCN for the construction of an overhead transmission line to acquire by condemnation, in accordance with Title 12 of the Real Property Article, any property or right necessary for the construction or maintenance of the transmission line.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Charles, Dorchester, Garrett, Harford, Montgomery, and Prince George's counties; Judiciary (Administrative Office of the Courts); Maryland Department of Agriculture; Department of Natural Resources; Maryland Department of Planning; Maryland Department of Transportation; State Department of Assessments and Taxation; Public Service Commission; Department of Legislative Services

Fiscal Note History: First Reader - January 22, 2025
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