

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 821 (Senator Smith)
Budget and Taxation

Abandoned Sears Building - Acquisition by the Department of General Services

This bill requires the Department of General Services (DGS) to initiate proceedings to acquire the Abandoned Sears Building in Montgomery County, by December 31, 2026. The property is located at 11255 New Hampshire Avenue in Silver Spring. DGS must acquire the property for a public purpose as quickly as is practicable, by purchase or condemnation in accordance with Title 12 of the Real Property Article. **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: State expenditures increase by a significant amount in FY 2027. The current property tax assessment for the Abandoned Sears Building totals \$16.0 million. Revenues are not directly affected.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Potential meaningful if the property is targeted for redevelopment and leads to additional economic activity for small businesses around the area of the Abandoned Sears Building.

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.” 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.

Other entities have been given express statutory authority by the State to exercise condemnation powers under specified circumstances, including the major subdivisions of the State, municipalities, and specified utilities such as gas, oil pipeline, railroad, telephone and telegraph, and water companies.

Public Use

There is no clear cut rule to determine whether a particular use of property taken through eminent domain is a “public use,” and Maryland courts have broadly interpreted the term. The Court of Appeals has recognized takings that encompass a “public benefit” or a “public purpose.” Maryland courts have given great deference to a legislative determination as to whether property should be taken for a particular public purpose.

The U.S. Supreme Court ruled in *Kelo v. City of New London*, 125 S. Ct. 2655 (2005), that New London, Connecticut’s use of its condemnation authority under a state law to require several homeowners in an economically depressed area to vacate their properties to make way for mixed use development did not violate the U.S. Constitution. In essence, the *Kelo* decision left the determination to state law as to whether eminent domain may be used for economic development purposes. In *Prince George’s County v. Collington*, 275 Md. 171 (1975), the Court of Appeals (now the Supreme Court of Maryland) authorized the county to use its eminent domain authority to take private property to be used for economic development purposes, even though the property was not blighted. The court in *Collington* enunciated the following rule: “projects reasonably designed to benefit the general public, by significantly enhancing the economic growth of the State or its subdivisions, are public uses, at least where the exercise of the power of condemnation provides an impetus which private enterprise cannot provide.” *Id.* at 191.

State Fiscal Effect: State expenditures increase by a significant amount in fiscal 2027 to acquire the Abandoned Sears Building. DGS indicates that existing staff can handle the administrative tasks required to acquire the property. While the actual cost to acquire the property is not known at this time, according to DGS, the current assessment for the property totals \$16.0 million. DGS estimates expenditures of \$500,000 for other costs

associated with acquiring the property, including appraisals, a feasibility study, title work and insurance, and other settlement costs.

Additional Information

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

Designated Cross File: None.

Information Source(s): Montgomery County; Department of General Services; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2026
js/hlb

Analysis by: Joanne E. Tetlow

Direct Inquiries to:
(410) 946-5510
(301) 970-5510