

UNOFFICIAL COPY OF HOUSE BILL 1039
CONSTITUTIONAL AMENDMENT

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6lr0659
CF 6lr0507

By: **Delegates McDonough, Aumann, Boteler, Bromwell, Cluster, Frank,
Impallaria, Jennings, Kach, and Weir**

Introduced and read first time: February 9, 2006

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore County - Eminent Domain - Limitation on Condemnation**
3 **Authority**

4 FOR the purpose of proposing amendments to the Maryland Constitution to limit the
5 condemnation of private property in Baltimore County under certain
6 circumstances; defining a certain term; and submitting this amendment to the
7 qualified voters of the State of Maryland for their adoption or rejection.

8 BY proposing an amendment to the Maryland Constitution
9 Article III - Legislative Department
10 Section 40, 40A, and 61

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, (Three-fifths of all the members elected to each of the two Houses
13 concurring), That it be proposed that the Maryland Constitution read as follows:

14 **Article III - Legislative Department**

15 40.

16 (A) The General Assembly shall enact no Law authorizing private property, to
17 be taken for public use, without just compensation, as agreed upon between the
18 parties, or awarded by a Jury, being first paid or tendered to the party entitled to such
19 compensation.

20 (B) FOR PURPOSES OF THIS SECTION, IN BALTIMORE COUNTY:

21 (1) "PUBLIC USE" MEANS:

22 (I) PUBLIC OWNERSHIP OR CONTROL; OR

23 (II) PHYSICAL USE OR ACCESS BY THE GENERAL PUBLIC; AND

24 (2) "PUBLIC USE" DOES NOT INCLUDE USE FOR ECONOMIC
25 DEVELOPMENT PURPOSES, INCLUDING:

- 1 (I) URBAN RENEWAL;
- 2 (II) COMMUNITY REVITALIZATION OR REDEVELOPMENT;
- 3 (III) COMMERCIAL OR INDUSTRIAL DEVELOPMENT;
- 4 (IV) JOB CREATION; OR
- 5 (V) GENERATION OF TAX REVENUE.

6 40A.

7 (A) (1) The General Assembly shall enact no law authorizing private
8 property to be taken for public use without just compensation, to be agreed upon
9 between the parties, or awarded by a jury, being first paid or tendered to the party
10 entitled to such compensation, but where such property is situated in:

11 (I) Baltimore City and is desired by this State or by the Mayor and
12 City Council of Baltimore, the General Assembly may provide that such property may
13 be taken immediately upon payment therefor to the owner or owners thereof by the
14 State or by the Mayor and City Council of Baltimore, or into court, such amount as
15 the State or the Mayor and City Council of Baltimore, as the case may be, shall
16 estimate to be the fair value of said property, provided such legislation also requires
17 the payment of any further sum that may subsequently be added by a jury; and
18 further provided that the authority and procedure for the immediate taking of
19 property as it applies to the Mayor and City Council of Baltimore on June 1, 1961,
20 shall remain in force and effect to and including June 1, 1963[, and where such
21 property is situated in];

22 (II) Baltimore County and is desired by Baltimore County,
23 Maryland, the County Council of Baltimore County, Maryland, may provide for the
24 appointment of an appraiser or appraisers by a Court of Record to value such property
25 and that upon payment of the amount of such evaluation, to the party entitled to
26 compensation, or into Court, and securing the payment of any further sum that may
27 be awarded by a jury, such property may be taken; and

28 (III) [where such property is situated in] Montgomery County and
29 in the judgment of and upon a finding by the County Council of said County that
30 there is immediate need therefor for right of way for County roads or streets, the
31 County Council may provide that such property may be taken immediately upon
32 payment therefor to the owner or owners thereof, or into court, such amount as a
33 licensed real estate broker or a licensed and certified real estate appraiser appointed
34 by the County Council shall estimate to be the fair market value of such property,
35 provided that the Council shall secure the payment of any further sum that may
36 subsequently be awarded by a jury.

37 (2) In the various municipal corporations within Cecil County, where in
38 the judgment of and upon a finding by the governing body of said municipal
39 corporation that there is immediate need therefor for right of way for municipal
40 roads, streets and extension of municipal water and sewage facilities, the governing

1 body may provide that such property may be taken immediately upon payment
 2 therefor to the owner or owners thereof, or into court, such amount as a licensed real
 3 estate broker appointed by the particular governing body shall estimate to be a fair
 4 market value of such property, provided that the municipal corporation shall secure
 5 the payment of any further sum that subsequently may be awarded by a jury.

6 (3) [This Section 40A] PARAGRAPHS (1)(III) AND (2) OF THIS
 7 SUBSECTION shall not apply in Montgomery County or any of the various municipal
 8 corporations within Cecil County, if the property actually to be taken includes a
 9 building or buildings.

10 (B) FOR PURPOSES OF THIS SECTION, IN BALTIMORE COUNTY:

11 (1) "PUBLIC USE" MEANS:

12 (I) PUBLIC OWNERSHIP OR CONTROL; OR

13 (II) PHYSICAL USE OR ACCESS BY THE GENERAL PUBLIC; AND

14 (2) "PUBLIC USE" DOES NOT INCLUDE USE FOR ECONOMIC
 15 DEVELOPMENT PURPOSES, INCLUDING:

16 (I) URBAN RENEWAL;

17 (II) COMMUNITY REVITALIZATION OR REDEVELOPMENT;

18 (III) COMMERCIAL OR INDUSTRIAL DEVELOPMENT;

19 (IV) JOB CREATION; OR

20 (V) GENERATION OF TAX REVENUE.

21 61.

22 (a) (1) The General Assembly may authorize and empower any county or
 23 any municipal corporation, by public local law:

24 [(1)] (I) [To] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS
 25 SUBSECTION, TO carry out urban renewal projects which shall be limited to slum
 26 clearance in slum or blighted areas and redevelopment or the rehabilitation of slum
 27 or blighted areas, and to include the acquisition, within the boundary lines of such
 28 county or municipal corporation, of land and property of every kind and any right,
 29 interest, franchise, easement or privilege therein, by purchase, lease, gift,
 30 condemnation or any other legal means. The term "slum area" shall mean any area
 31 where dwellings predominate which, by reason of depreciation, overcrowding, faulty
 32 arrangement or design, lack of ventilation, light or sanitary facilities, or any
 33 combination of these factors, are detrimental to the public safety, health or morals.
 34 The term "blighted area" shall mean an area in which a majority of buildings have
 35 declined in productivity by reason of obsolescence, depreciation or other causes to an
 36 extent they no longer justify fundamental repairs and adequate maintenance[.]; AND

1 [(2)] (II) To sell, lease, convey, transfer or otherwise dispose of any of said
2 land or property, regardless of whether or not it has been developed, redeveloped,
3 altered or improved and irrespective of the manner or means in or by which it may
4 have been acquired, to any private, public or quasi public corporation, partnership,
5 association, person or other legal entity.

6 (2) No land or property taken by any county or any municipal
7 corporation for any of the aforementioned purposes or in connection with the exercise
8 of any of the powers which may be granted to such county or municipal corporation
9 pursuant to this section by exercising the power of eminent domain shall be taken
10 without just compensation, as agreed upon between the parties, or awarded by a jury,
11 being first paid or tendered to the party entitled to such compensation.

12 (3) All land or property needed, or taken by the exercise of the power of
13 eminent domain, by any county or any municipal corporation for any of the
14 aforementioned purposes or in connection with the exercise of any of the powers
15 which may be granted pursuant to this section is hereby declared to be needed or
16 taken for public uses and purposes. Any or all of the activities authorized pursuant to
17 this section shall constitute governmental functions undertaken for public uses and
18 purposes and the power of taxation may be exercised, public funds expended and
19 public credit extended in furtherance thereof.

20 (4) **IN BALTIMORE COUNTY, PRIVATE PROPERTY MAY NOT BE ACQUIRED**
21 **BY CONDEMNATION TO CARRY OUT AN URBAN RENEWAL PROJECT.**

22 (b) The General Assembly may grant to any county or any municipal
23 corporation, by public local law, any and all additional power and authority necessary
24 or proper to carry into full force and effect any and all of the specific powers
25 authorized by this section and to fully accomplish any and all of the purposes and
26 objects contemplated by the provisions of this section, provided such additional power
27 or authority is not inconsistent with the terms and provisions of this section or with
28 any other provision or provisions of the Constitution of Maryland.

29 (c) The General Assembly of Maryland, by public local law, may establish or
30 authorize the establishment of a public body or agency to undertake in a county or
31 municipal corporation (other than Baltimore City) the activities authorized by this
32 section, and may provide that any or all of the powers, except the power of taxation,
33 herein authorized to be granted to such county or municipal corporation shall be
34 vested in such public body or agency or in any existing public body or agency.

35 (d) The General Assembly may place such other and further restrictions or
36 limitations on the exercise of any of the powers provided for in this section, as it may
37 deem proper and expedient.

38 (e) The provisions of this section are independent of, and shall in no way
39 affect, the powers granted under Article XIB of the Constitution of Maryland, title
40 "City of Baltimore -- Land Development and Redevelopment." Also, the power
41 provided in this section for the General Assembly to enact public local laws
42 authorizing any municipal corporation or any county to carry out urban renewal

1 projects prevails over the restrictions contained in Article 11A "Local Legislation" and
2 in Article 11E "Municipal Corporations" of this Constitution.

3 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
4 determines that the amendment to the Maryland Constitution proposed by this Act
5 affects only one county and that the provisions of Article XIV, § 1 of the Maryland
6 Constitution concerning local approval of constitutional amendments apply.

7 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
8 proposed as an amendment to the Maryland Constitution shall be submitted to the
9 legal and qualified voters of this State at the next general election to be held in
10 November, 2006 for their adoption or rejection in pursuance of directions contained in
11 Article XIV of the Maryland Constitution. At that general election, the vote on this
12 proposed amendment to the Constitution shall be by ballot, and upon each ballot
13 there shall be printed the words "For the Constitutional Amendment" and "Against
14 the Constitutional Amendment," as now provided by law. Immediately after the
15 election, all returns shall be made to the Governor of the vote for and against the
16 proposed amendment, as directed by Article XIV of the Maryland Constitution, and
17 further proceedings had in accordance with Article XIV.