

SENATE BILL 955

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5lr3009
CF 5lr3489

By: **Senator West**

Introduced and read first time: January 28, 2025

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Overhead Transmission Lines – Eminent Domain**

3 FOR the purpose of prohibiting a person constructing an overhead transmission line from
4 exercising a right of condemnation to acquire property encumbered by a certain
5 easement; authorizing a certain property owner to bring an action for damages
6 incurred as a result of a certain condemnation proceeding; requiring that reasonable
7 counsel fees be awarded to counsel for the defendant in a condemnation proceeding
8 and that certain court costs be charged against the plaintiff under certain
9 circumstances; and generally relating to overhead transmission lines and eminent
10 domain.

11 BY repealing and reenacting, without amendments,
12 Article – Public Utilities
13 Section 7–207(a)(1), (3), and (6)
14 Annotated Code of Maryland
15 (2020 Replacement Volume and 2024 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Public Utilities
18 Section 7–207(b)(3)
19 Annotated Code of Maryland
20 (2020 Replacement Volume and 2024 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article – Real Property
23 Section 10–705(a)(1) and (2) and 12–107(a)
24 Annotated Code of Maryland
25 (2023 Replacement Volume and 2024 Supplement)

26 BY adding to
27 Article – Real Property

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 12–104(h)
Annotated Code of Maryland
(2023 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 12–105(b) and 12–107(b)
Annotated Code of Maryland
(2023 Replacement Volume and 2024 Supplement)

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

Article – Public Utilities

7–207.

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

(3) (i) “Construction” means:

1. any physical change at a site, including fabrication,
erection, installation, or demolition; or

2. the entry into a binding agreement or contractual
obligation to purchase equipment exclusively for use in construction in the State or to
undertake a program of actual construction in the State which cannot be canceled or
modified without substantial loss to the owner or operator of the proposed generating
station.

(ii) “Construction” does not include a change that is needed for the
temporary use of a site or route for nonutility purposes or for use in securing geological
data, including any boring that is necessary to ascertain foundation conditions.

(6) “Qualified generator lead line” means an overhead transmission line
that is designed to carry a voltage in excess of 69,000 volts and would allow an out-of-state
Tier 1 or Tier 2 renewable source to interconnect with a portion of the electric system in
Maryland that is owned by an electric company.

(b) (3) (i) Except as provided in paragraph (4) of this subsection **AND**
SUBJECT TO SUBPARAGRAPH (VI) OF THIS PARAGRAPH, unless a certificate of public
convenience and necessity for the construction is first obtained from the Commission, 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.

(ii) **[For] SUBJECT TO SUBPARAGRAPH (VI) OF THIS PARAGRAPH, FOR** construction related to an existing overhead transmission line, the Commission may waive the requirement in subparagraph (i) of this paragraph for good cause.

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

1. is an electric company; or

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

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

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

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

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

2. **[On] SUBJECT TO SUBPARAGRAPH (VI) OF THIS PARAGRAPH, ON** issuance of a certificate of public convenience and necessity for the construction of an overhead transmission line, a person 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.

(VI) NOTWITHSTANDING ANY OTHER LAW, A PERSON MAY NOT EXERCISE A RIGHT OF CONDEMNATION TO ACQUIRE PROPERTY ENCUMBERED BY A CONSERVATION EASEMENT, AS DEFINED UNDER § 10-705(A) OF THE REAL PROPERTY ARTICLE, FOR THE PURPOSE OF CONSTRUCTING AN OVERHEAD TRANSMISSION LINE.

Article – Real Property

10-705.

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

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

(i) Owned by:

1. The Maryland Environmental Trust;

2. The Maryland Historical Trust;

3. The Maryland Agricultural Land Preservation Foundation;

4. The Maryland Department of Natural Resources;

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

6. A land trust; or

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

12–104.

(H) (1) THE OWNER OF PROPERTY THAT IS USED FOR RESIDENTIAL OR AGRICULTURAL PURPOSES MAY BRING AN ACTION IN A COURT OF COMPETENT JURISDICTION FOR DAMAGES INCURRED AS THE RESULT OF THE VALUE OF THAT PROPERTY BEING DIMINISHED BY THE TAKING OF ANOTHER PROPERTY IN ACCORDANCE WITH THIS SUBTITLE IF THE PROPERTY BEING TAKEN:

**(I) IS LOCATED WITHIN 500 FEET OF THE OWNER’S PROPERTY;
AND**

(II) WAS TAKEN IN CONJUNCTION WITH THE CONSTRUCTION OF AN OVERHEAD TRANSMISSION LINE OR RELATED INFRASTRUCTURE.

(2) A PROPERTY OWNER WHO BRINGS AN ACTION UNDER THIS SUBSECTION AND IS AWARDED DAMAGES MAY ALSO SEEK, AND THE COURT MAY AWARD, REASONABLE ATTORNEY’S FEES.

1 **(3) A PROPERTY OWNER MAY BRING AN ACTION UNDER PARAGRAPH**
2 **(1) OF THIS SUBSECTION ON THE ENTERING OF THE FINAL DECISION IN A**
3 **CONDEMNATION PROCEEDING.**

4 12-105.

5 (b) **(1) (I)** The fair market value of property in a condemnation proceeding
6 is the price as of the valuation date for the highest and best use of the property which a
7 vendor, willing but not obligated to sell, would accept for the property, and which a
8 purchaser, willing but not obligated to buy, would pay, excluding any increment in value
9 proximately caused by the public project for which the property condemned is needed. [In
10 addition, fair]

11 **(II) FAIR** market value includes any amount by which the price
12 reflects a diminution in value occurring between the effective date of legislative authority
13 for the acquisition of the property and the date of actual taking if the trier of facts finds
14 that the diminution in value was proximately caused by the public project for which the
15 property condemned is needed, or by announcements or acts of the plaintiff or its officials
16 concerning the public project, and was beyond the reasonable control of the property owner.

17 **(2) (I) THIS PARAGRAPH APPLIES ONLY TO A CONDEMNATION**
18 **PROCEEDING RELATED TO THE CONSTRUCTION OF AN OVERHEAD TRANSMISSION**
19 **LINE IN ACCORDANCE WITH § 7-207 OF THE PUBLIC UTILITIES ARTICLE.**

20 **(II) IF THE FINAL DECISION IN A CONDEMNATION PROCEEDING**
21 **IS THAT THE ASSESSED VALUE OF THE PROPERTY IS GREATER THAN THE APPRAISED**
22 **VALUE PLACED ON THE PROPERTY BY THE CONDEMNING AUTHORITY, A**
23 **REASONABLE COUNSEL FEE FIXED BY THE TRIAL COURT SHALL BE AWARDED TO**
24 **COUNSEL FOR THE DEFENDANT AND CHARGED AGAINST THE PLAINTIFF TOGETHER**
25 **WITH THE OTHER COSTS OF THE CASE.**

26 12-107.

27 (a) Any party to a condemnation case may appeal from a final judgment or
28 determination in the manner prescribed by the Maryland Rules.

29 (b) **(1)** If the final decision on appeal is that the plaintiff is not entitled to
30 condemn the property, a reasonable counsel fee fixed by the trial court shall be awarded to
31 counsel for the defendant and charged against the plaintiff together with the other costs of
32 the case.

33 **(2) (I) THIS PARAGRAPH APPLIES ONLY TO THE APPEAL OF A**
34 **CONDEMNATION CASE RELATED TO THE CONSTRUCTION OF AN OVERHEAD**
35 **TRANSMISSION LINE IN ACCORDANCE WITH § 7-207 OF THE PUBLIC UTILITIES**
36 **ARTICLE.**

1 **(II) IF THE FINAL DECISION ON APPEAL IS THAT THE ASSESSED**
2 **VALUE OF THE PROPERTY IS GREATER THAN THE APPRAISED VALUE PLACED ON THE**
3 **PROPERTY BY THE CONDEMNING AUTHORITY, A REASONABLE COUNSEL FEE FIXED**
4 **BY THE TRIAL COURT SHALL BE AWARDED TO COUNSEL FOR THE DEFENDANT AND**
5 **CHARGED AGAINST THE PLAINTIFF TOGETHER WITH THE OTHER COSTS OF THE**
6 **CASE.**

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