

# SENATE BILL 333

N1, L6

CONSTITUTIONAL AMENDMENT

5lr1820

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By: **Senator Miller**

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Calvert County – Improvements to County Roads and Related Infrastructure –**  
3 **“Quick–Take” Condemnation**

4 FOR the purpose of proposing an addition to the Maryland Constitution to authorize the  
5 General Assembly to provide that certain property located in Calvert County may be  
6 taken by the County Commissioners of Calvert County for public use immediately  
7 on payment of a certain amount to the owner of the property, under certain  
8 circumstances and subject to certain conditions; submitting this amendment to the  
9 qualified voters of the State for their adoption or rejection; establishing a certain  
10 “quick–take” procedure for the acquisition of property by the County Commissioners  
11 of Calvert County for certain purposes; authorizing the county commissioners to take  
12 possession of certain property and proceed with certain construction activities  
13 without the interference of the property owner, under certain circumstances;  
14 requiring the clerk of the circuit court to pay a certain amount paid into the court to  
15 a property owner within a certain number of days after receiving a written request  
16 from the property owner, subject to a certain condition; providing that a certain  
17 payment does not prejudice the rights of a certain property owner; providing that a  
18 certain payment does not limit in any way the amount of the final award that may  
19 be allowed in certain condemnation proceedings; requiring the county commissioners  
20 to pay a certain excess to a certain property owner at the conclusion of certain  
21 proceedings; specifying that certain provisions of law do not prevent the county  
22 commissioners from using certain procedures to acquire property; providing for the  
23 application of this Act; making certain provisions of this Act contingent on the  
24 passage and ratification of a certain constitutional amendment; and generally  
25 relating to the taking of private property for public use.

26 BY proposing an addition to the Maryland Constitution  
27 Article III – Legislative Department  
28 Section 40D

29 BY adding to

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Local Government  
 2 Section 12–524  
 3 Annotated Code of Maryland  
 4 (2013 Volume and 2014 Supplement)

5 BY repealing and reenacting, with amendments,  
 6 Article – Real Property  
 7 Section 12–101(c)  
 8 Annotated Code of Maryland  
 9 (2010 Replacement Volume and 2014 Supplement)

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

13 **Article III – Legislative Department**

14 **40D.**

15 **THE GENERAL ASSEMBLY SHALL ENACT NO LAW AUTHORIZING PRIVATE**  
 16 **PROPERTY TO BE TAKEN FOR PUBLIC USE WITHOUT JUST COMPENSATION, TO BE**  
 17 **AGREED UPON BETWEEN THE PARTIES, OR AWARDED BY A JURY, BEING FIRST PAID**  
 18 **OR TENDERED TO THE PARTY ENTITLED TO SUCH COMPENSATION, EXCEPT THAT**  
 19 **WHERE SUCH PROPERTY IS LOCATED IN CALVERT COUNTY AND IN THE JUDGMENT**  
 20 **OF THE COUNTY COMMISSIONERS OF CALVERT COUNTY IS NEEDED FOR THE**  
 21 **PURPOSE OF IMPROVING AN EXISTING COUNTY ROAD OR RELATED**  
 22 **INFRASTRUCTURE, THE GENERAL ASSEMBLY MAY PROVIDE THAT SUCH PROPERTY**  
 23 **MAY BE TAKEN IMMEDIATELY BY THE COUNTY COMMISSIONERS ON PAYMENT TO**  
 24 **THE OWNER OF THE PROPERTY, OR INTO COURT, THE AMOUNT THAT A LICENSED**  
 25 **AND CERTIFIED REAL ESTATE APPRAISER APPOINTED BY THE COUNTY**  
 26 **COMMISSIONERS ESTIMATES TO BE THE FAIR MARKET VALUE OF THE PROPERTY,**  
 27 **PROVIDED SUCH LEGISLATION ALSO REQUIRES THE PAYMENT OF ANY FURTHER**  
 28 **SUM THAT MAY SUBSEQUENTLY BE AWARDED BY A JURY.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
 30 as follows:

31 **Article – Local Government**

32 **12–524.**

33 **(A) THIS SECTION APPLIES ONLY TO CALVERT COUNTY.**

34 **(B) (1) AFTER MAKING EVERY REASONABLE AND GOOD FAITH EFFORT TO**  
 35 **NEGOTIATE, THE COUNTY COMMISSIONERS MAY ACQUIRE PROPERTY BY**

1 CONDEMNATION UNDER THIS SECTION FOR THE PURPOSE OF IMPROVING AN  
2 EXISTING ROAD OR RELATED INFRASTRUCTURE.

3 (2) EXCEPT AS PROVIDED IN THIS SECTION, CONDEMNATION  
4 PROCEEDINGS UNDER THIS SECTION SHALL FOLLOW THE PROCEDURES SET FORTH  
5 IN TITLE 12 OF THE REAL PROPERTY ARTICLE AND THE MARYLAND RULES.

6 (C) TO CONDEMN PROPERTY UNDER THIS SECTION, THE COUNTY  
7 COMMISSIONERS SHALL:

8 (1) FILE A PETITION FOR CONDEMNATION IN THE CIRCUIT COURT;  
9 AND

10 (2) PAY TO THE PROPERTY OWNER OR INTO THE COURT FOR THE  
11 PROPERTY OWNER'S BENEFIT:

12 (I) THE ESTIMATED FAIR MARKET VALUE OF THE PROPERTY TO  
13 BE ACQUIRED, AS DETERMINED BY A LICENSED AND CERTIFIED REAL ESTATE  
14 APPRAISER APPOINTED BY THE COUNTY COMMISSIONERS; AND

15 (II) FAIR COMPENSATION FOR DAMAGE RESULTING TO THE  
16 REMAINING PROPERTY OF THE PROPERTY OWNER.

17 (D) AFTER FILING A PETITION FOR CONDEMNATION AND MAKING THE  
18 PAYMENT REQUIRED UNDER SUBSECTION (C) OF THIS SECTION, THE COUNTY  
19 COMMISSIONERS MAY:

20 (1) TAKE POSSESSION OF THE PROPERTY; AND

21 (2) BEGIN CONSTRUCTION WITHOUT INTERFERENCE BY THE  
22 PROPERTY OWNER.

23 (E) (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, NO LATER  
24 THAN 10 DAYS AFTER RECEIVING A WRITTEN REQUEST FROM A PROPERTY OWNER,  
25 THE CLERK OF THE COURT SHALL PAY TO THE PROPERTY OWNER THE AMOUNT PAID  
26 INTO THE COURT FOR THE PROPERTY OWNER'S BENEFIT.

27 (2) ANY PAYMENT RECEIVED BY A PROPERTY OWNER UNDER THIS  
28 SUBSECTION MAY NOT PREJUDICE THE RIGHTS OF THE PROPERTY OWNER.

29 (3) AS A CONDITION OF RECEIVING THE AMOUNT PAID INTO THE  
30 COURT FOR THE PROPERTY OWNER'S BENEFIT, THE PROPERTY OWNER SHALL

1 AGREE TO REPAY TO THE COUNTY COMMISSIONERS ANY EXCESS OVER THE FINAL  
2 AWARD THAT IS ALLOWED IN THE SUBSEQUENT CONDEMNATION PROCEEDINGS.

3 (F) A PAYMENT MADE UNDER SUBSECTION (C) OF THIS SECTION DOES NOT  
4 LIMIT IN ANY WAY THE AMOUNT OF THE FINAL AWARD THAT MAY BE ALLOWED IN  
5 THE SUBSEQUENT CONDEMNATION PROCEEDINGS.

6 (G) AT THE CONCLUSION OF ALL PROCEEDINGS, THE COUNTY  
7 COMMISSIONERS SHALL PAY TO THE PROPERTY OWNER ANY EXCESS OF THE FINAL  
8 AWARD OVER THE AMOUNT PAID UNDER SUBSECTION (C) OF THIS SECTION.

### 9 Article – Real Property

10 12–101.

11 (c) This title does not prevent [the]:

12 (1) THE State Roads Commission from using the procedures set forth in  
13 Title 8, Subtitle 3 of the Transportation Article[, or prevent];

14 (2) Baltimore City from using the procedure set forth in the Charter of  
15 Baltimore City and §§ 21–12 through 21–22, inclusive, of the Public Local Laws of  
16 Baltimore City; OR

17 (3) THE COUNTY COMMISSIONERS OF CALVERT COUNTY FROM  
18 USING THE PROCEDURES SET FORTH IN § 12–524 OF THE LOCAL GOVERNMENT  
19 ARTICLE.

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

24 SECTION 4. AND BE IT FURTHER ENACTED, That the amendment to the  
25 Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified  
26 voters of the State at the next general election to be held in November 2016 for their  
27 adoption or rejection pursuant to Article XIV of the Maryland Constitution. At that general  
28 election, the vote on this proposed amendment to the Constitution shall be by ballot, and  
29 upon each ballot there shall be printed the words “For the Constitutional Amendment” and  
30 “Against the Constitutional Amendment,” as now provided by law. Immediately after the  
31 election, all returns shall be made to the Governor of the vote for and against the proposed  
32 amendment, as directed by Article XIV of the Maryland Constitution, and further  
33 proceedings had in accordance with Article XIV.

1           SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act is  
2 contingent on the passage of Section 1 of this Act, a constitutional amendment, and its  
3 ratification by the voters of the State.

4           SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions of  
5 Section 5 of this Act, Section 2 of this Act shall take effect on the proclamation of the  
6 Governor that the constitutional amendment, having received a majority of the votes cast  
7 at the general election, has been adopted by the people of Maryland.