

HOUSE BILL 559

C5, N1
HB 548/18 – ENV

9lr1374

By: **Delegates Healey, B. Barnes, Bartlett, Carey, Chang, Fennell, Gaines, Holmes, Ivey, Lehman, Pena–Melnyk, Rogers, Valentino–Smith, Washington, and R. Watson**

Introduced and read first time: February 4, 2019
Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Railroad Companies – Condemnation Authority – Application**

3 FOR the purpose of establishing that certain authority of railroad companies to acquire
4 property by condemnation does not apply to an entity that owns or operates certain
5 modes of transportation.

6 BY repealing and reenacting, without amendments,
7 Article – Public Utilities
8 Section 5–405 through 5–408
9 Annotated Code of Maryland
10 (2010 Replacement Volume and 2018 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – Public Utilities
13 Section 5–409
14 Annotated Code of Maryland
15 (2010 Replacement Volume and 2018 Supplement)

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

18 **Article – Public Utilities**

19 5–405.

20 (a) A railroad company or its authorized agent may agree with the owner to
21 purchase, use, occupy, or divert the owner’s land, earth, gravel, stone, timber, streams,
22 materials, or improvements that the company wants for the proper construction or repair
23 of the railroad company’s roads or works.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) The company may acquire the property by condemnation under Title 12 of the
2 Real Property Article if:

3 (1) the company cannot agree with the owner of the property; or

4 (2) an owner:

5 (i) is a minor, is adjudged to be mentally incompetent, or is under
6 any other legal disability to contract; or

7 (ii) is absent from the county in which the property is located when
8 the company wants the property.

9 5-406.

10 (a) (1) A railroad company may change the location or grade of any portion of
11 its road if the company finds the change is necessary for any reasonable cause, including to
12 avoid:

13 (i) inconvenience to public travel;

14 (ii) dangerous or difficult curves or grades; or

15 (iii) unsafe or unsubstantial grounds or foundations.

16 (2) A change of location or grade under this section shall follow the general
17 route of the existing road.

18 (3) A railroad company may enter on and take land and make surveys
19 necessary to make the change in location or grade in accordance with Title 12 of the Real
20 Property Article.

21 (b) (1) A railroad company is liable to the owner of the land on which the road
22 was constructed for any damages caused by a change in location or grade of the road.

23 (2) The amount of damages determined shall be paid to the owner or
24 deposited into court.

25 (3) An owner shall claim damages within:

26 (i) 30 days after actual notice of the intended change has been given
27 to the owner, if the owner resides on the premises; or

28 (ii) 60 days after publication of notice in a newspaper in general
29 circulation in the county, if the owner is a nonresident.

1 (c) If a railroad company condemns land under this section, the condemnation is
2 binding on the company, unless the company chooses to abandon the location within 30
3 days after making the condemnation.

4 5-407.

5 (a) A railroad company and the municipal corporation, public officer, or public
6 authority that owns or has control of any road, street, alley, or other public way or ground
7 necessary to locate any part of the railroad may agree on the manner, terms, and conditions
8 allowing the railroad company to use or occupy the road, street, alley, or other public way
9 or ground.

10 (b) If the parties are unable to agree and the railroad company needs to use or
11 occupy the road, street, alley, or other public way or ground, the railroad company may
12 acquire the property by condemnation in accordance with Title 12 of the Real Property
13 Article.

14 (c) (1) A railroad company that lays track on any public street, road, alley, or
15 other public way or ground is responsible for any damage done by the location of the track
16 to private property on or near the public way or ground.

17 (2) The owner of the private property shall bring a civil action for damages
18 under this subsection within 2 years after the completion of the track.

19 (d) A railroad company may not pass through Baltimore City without the consent
20 of the Mayor and City Council.

21 5-408.

22 The power of a railroad company to condemn land and other property under this
23 subtitle includes the power to condemn, for railroad purposes, private crossings or ways
24 and land and other property to provide substitute outlets.

25 5-409.

26 (A) [Sections] **SUBJECT TO SUBSECTION (B) OF THIS SECTION, §§ 5-405,**
27 **5-406, and 5-407** of this subtitle apply to all railroads operated by electricity, cable, or
28 other improved motive power, whether the property proposed to be condemned is located
29 in a county or Baltimore City, where streets and alleys have not been opened and occupied
30 as city streets.

31 (B) **SECTIONS 5-405 THROUGH 5-408 OF THIS SUBTITLE DO NOT APPLY TO**
32 **AN ENTITY THAT OWNS OR OPERATES:**

33 (1) **A RAILROAD POWERED BY A MAGNETIC LEVITATION PROPULSION**
34 **SYSTEM; OR**

1 **(2) PASSENGER OR FREIGHT TRANSPORTATION FOR WHICH**
2 **PRESSURIZED CAPSULES OR PODS TRAVEL AT HIGH SPEED IN REDUCED-PRESSURE**
3 **TUBES ON A THIN LAYER OF PRESSURIZED AIR OR OTHER GAS.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2019.