

FIRST REGULAR SESSION

HOUSE BILL NO. 858

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HOBBS (Sponsor), BYRD, DEMPSEY, QUINN, SMITH (118),
RICHARD, MYERS, STEVENSON, MUNZLINGER AND BAKER (123) (Co-sponsors).

Read 1st time March 29, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2118L.02I

AN ACT

To repeal sections 353.020, 516.120, 523.010, 523.030, and 523.040, RSMo, and to enact in lieu thereof eleven new sections relating to eminent domain.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 353.020, 516.120, 523.010, 523.030, and 523.040, RSMo, are
2 repealed and eleven new sections enacted in lieu thereof, to be known as sections 353.020,
3 353.200, 516.120, 523.010, 523.030, 523.040, 523.110, 523.115, 523.120, 523.125, and 523.130,
4 to read as follows:

353.020. The following terms, whenever used or referred to in this chapter, mean:

- 2 (1) "Area", that portion of the city which the legislative authority of such city has found
3 or shall find to be blighted so that the clearance, replanning, rehabilitation, or reconstruction
4 thereof is necessary to effectuate the purposes of this law. Any such area may include buildings
5 or improvements not in themselves blighted, and any real property, whether improved or
6 unimproved, the inclusion of which is deemed necessary for the effective clearance, replanning,
7 reconstruction or rehabilitation of the area of which such buildings, improvements or real
8 property form a part;
- 9 (2) "Blighted area", that portion of the city within which the [legislative authority of
10 such] city **planning commission authorized under section 89.310, RSMo**, determines that by
11 reason of age, obsolescence, inadequate or outmoded design or physical deterioration have
12 become [economic and social] liabilities, and that such conditions are conducive to ill health,
13 transmission of disease, **or crime** [or inability to pay reasonable taxes]. **Any fact that different**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 use would provide a higher level of tax revenue or economic liability or that land is not
15 being put to its highest economic use shall not be a valid factor in determining blight. In
16 addition to such determinations, the applicable property shall support findings by the
17 planning commission that it meets at least two of the following tests:

18 (a) Because of its physical condition or use, the property is regarded as a public
19 nuisance at common law or has been declared a public nuisance in accordance with local
20 housing, building, plumbing, fire, and related codes;

21 (b) Because of its physical condition, use or occupancy is considered an attractive
22 nuisance to children, including but not limited to abandoned wells, shafts, basements,
23 excavations, and unsafe fences or structures;

24 (c) Because it is dilapidated, unsanitary, unsafe, vermin-infested or lacking in the
25 facilities and equipment required by the housing code of the municipality, the property has
26 been designated by the department responsible for enforcement of the code as unfit for
27 human habitation;

28 (d) The property is a fire hazard, or is otherwise dangerous to the safety of person
29 or property;

30 (e) Any structure from which the utilities, plumbing, heating, sewerage, or other
31 facilities have been disconnected, destroyed, removed, or rendered ineffective so that the
32 property is unfit for its intended use;

33 (f) Any vacant or unimproved lot or parcel of ground in a predominantly built-up
34 neighborhood, which by reason of neglect or lack of maintenance has become a place for
35 accumulation of trash and debris, or a haven for rodents or other vermin;

36 (g) Any unoccupied property which has been tax delinquent for a period of two
37 years prior to August 28, 2005, and those in the future having a two-year tax delinquency;

38 (h) Any property which is vacant but not tax delinquent, which has not been
39 rehabilitated within one year of the receipt of notice to rehabilitate from the appropriate
40 code enforcement agency;

41 (i) Any abandoned property. A property shall be considered abandoned if:

42 a. It is a vacant or unimproved lot or parcel of ground on which a municipal lien
43 for the cost of demolition of any structure located on the property remains unpaid for a
44 period of six months;

45 b. It is a vacant property or vacant or unimproved lot or parcel of ground on which
46 the total of municipal liens on the property for tax or any other type of claim of the
47 municipality are in excess of one hundred fifty percent of the fair market value of the
48 property as established by the assessor; or

49 **c. The property has been declared abandoned by the owner, including an estate**
50 **that is in possession of the property;**

51 **(j) The property is located in a part of the city which has a level of criminal activity**
52 **more than ten percent higher than the criminal activity of the city as a whole; or**

53 **(k) The fair market value of the property has diminished by more than ten percent**
54 **per year during the two previous reassessment periods.**

55

56 **The determination of blight shall be considered a quasi-judicial function, attaching the**
57 **rights of procedural due process to affected landowners and requiring the city planning**
58 **commission to issue findings of fact and conclusions of law consistent with this section.**
59 **Such findings of fact and conclusions of law shall be reviewed de novo at the request of any**
60 **property owner of land deemed blighted;**

61 (3) "City" or "such cities", any city within this state and any county of the first
62 classification with a charter form of government and a population of at least nine hundred
63 thousand inhabitants or any county with a charter form of government and with more than six
64 hundred thousand but less than seven hundred thousand inhabitants. The county's authority
65 pursuant to this chapter shall be restricted to the unincorporated areas of such county;

66 (4) "Development plan", a plan, together with any amendments thereto, for the
67 development of all or any part of a blighted area, which is authorized by the legislative authority
68 of any such city;

69 (5) "Legislative authority", the city council or board of aldermen of the cities affected
70 by this chapter;

71 (6) "Mortgage", a mortgage, trust indenture, deed of trust, building and loan contract, or
72 other instrument creating a lien on real property, to secure the payment of an indebtedness, and
73 the indebtedness secured by any of them;

74 (7) "Real property" includes lands, buildings, improvements, land under water,
75 waterfront property, and any and all easements, franchises and hereditaments, corporeal or
76 incorporeal, and every estate, interest, privilege, easement, franchise and right therein, or
77 appurtenant thereto, legal or equitable, including restrictions of record, created by plat, covenant
78 or otherwise, rights-of-way and terms for years;

79 (8) "Redevelopment", the clearance, replanning, reconstruction or rehabilitation of any
80 blighted area, and the provision for such industrial, commercial, residential or public structures
81 and spaces as may be appropriate, including recreational and other facilities incidental or
82 appurtenant thereto;

83 (9) "Redevelopment project", a specific work or improvement to effectuate all or any
84 part of a development plan;

85 (10) "Urban redevelopment corporation", a corporation organized pursuant to this
86 chapter; except that any life insurance company organized pursuant to the laws of, or admitted
87 to do business in, the state of Missouri may from time to time within five years after April 23,
88 1946, undertake, alone or in conjunction with, or as a lessee of any such life insurance company
89 or urban redevelopment corporation, a redevelopment project pursuant to this chapter, and shall,
90 in its operations with respect to any such redevelopment project, but not otherwise, be deemed
91 to be an urban redevelopment corporation for the purposes of this section and sections 353.010,
92 353.040, 353.060 and 353.110 to 353.160.

**353.200. For purposes of calculating just compensation for the taking of property
2 deemed blighted by the appropriate governmental entity, such taking shall be deemed to
3 occur at the time the area is designated as blighted and not at the time when the
4 condemning entity, whether a governmental entity or an urban redevelopment corporation
5 organized under this chapter, formally begins condemnation proceedings.**

516.120. Within five years:

2 (1) All actions upon contracts, obligations or liabilities, express or implied, except those
3 mentioned in section 516.110, and except upon judgments or decrees of a court of record, and
4 except where a different time is herein limited;

5 (2) An action upon a liability created by a statute other than a penalty or forfeiture;

6 (3) An action for trespass on real estate **and any action arising under section 523.130,**
7 **RSMo;**

8 (4) An action for taking, detaining or injuring any goods or chattels, including actions
9 for the recovery of specific personal property, or for any other injury to the person or rights of
10 another, not arising on contract and not herein otherwise enumerated;

11 (5) An action for relief on the ground of fraud, the cause of action in such case to be
12 deemed not to have accrued until the discovery by the aggrieved party, at any time within ten
13 years, of the facts constituting the fraud.

523.010. 1. In case land, or other property, is sought to be appropriated by any road,
2 railroad, street railway, telephone, telegraph or any electrical corporation organized for the
3 manufacture or transmission of electric current for light, heat or power, including the
4 construction, when that is the case, of necessary dams and appurtenant canals, flumes, tunnels
5 and tailraces and including the erection, when that is the case, of necessary electric steam
6 powerhouses, hydroelectric powerhouses and electric substations or any oil, pipeline or gas
7 corporation engaged in the business of transporting or carrying oil, liquid fertilizer solutions, or
8 gas by means of pipes or pipelines laid underneath the surface of the ground, or other corporation
9 created under the laws of this state for public use, and such corporation and the owners cannot
10 agree upon the proper compensation to be paid, or in the case the owner is incapable of

11 contracting, be unknown, or be a nonresident of the state, such corporation may apply to the
12 circuit court of the county of this state where such land or any part thereof lies by petition setting
13 forth the general directions in which it is desired to construct its road, railroad, street railway,
14 telephone, or telegraph line or electric line, including, when that is the case, the construction and
15 maintenance of necessary dams and appurtenant canals, tunnels, flumes and tailraces and, when
16 that is the case, the appropriation of land submerged by the construction of such dam, and
17 including the erection and maintenance, when that is the case, of necessary electric steam
18 powerhouses, hydroelectric powerhouses and electric substations, or oil, pipeline, liquid fertilizer
19 solution pipeline, or gas line over or underneath the surface of such lands, a description of the
20 real estate, or other property **interest**, which the company seeks to acquire; the names of the
21 owners thereof, if known; or if unknown, a pertinent description of the property whose owners
22 are unknown and praying the appointment, **by the court**, of three disinterested residents of the
23 county, as commissioners, **to be agreed upon within ten days of filing the petition by the**
24 **appraisers contracted under section 523.115 for the condemning entity and the condemnee,**
25 or a jury, to assess the damages which such owners may severally sustain in consequence of the
26 establishment, erection and maintenance of such road, railroad, street railway, telephone,
27 telegraph line, or electrical line including damages from the construction and maintenance of
28 necessary dams and the condemnation of land submerged thereby, and the construction and
29 maintenance of appurtenant canals, flumes, tunnels and tailraces and the erection and
30 maintenance of necessary electric steam powerhouses, hydroelectric powerhouses and electric
31 substations, or oil, pipeline, or gas line over or underneath the surface of such lands; to which
32 petition the owners of any or all as the plaintiff may elect of such parcels as lie within the county
33 or circuit may be made parties defendant by names if the names are known, and by the
34 description of the unknown owners of the land therein described if their names are unknown.
35 **The court shall appoint the county assessor for the county in which the property is located,**
36 **or a deputy county assessor appointed by the county assessor for such purposes, to serve**
37 **as one of the disinterested commissioners. The case shall be heard no later than five days**
38 **after the appointment of the three disinterested commissioners.**

39 2. If the proceedings seek to affect the lands of persons under conservatorship, the
40 conservators must be made parties defendant. If the present owner of any land to be affected has
41 less estate than a fee, the person having the next vested estate in remainder may at the option of
42 the petitioners be made party defendant; but if such remaindermen are not made parties, their
43 interest shall not be bound by the proceedings.

44 3. It shall not be necessary to make any persons party defendants in respect to their
45 ownership unless they are either in actual possession of the premises to be affected claiming title
46 or having a title of the premises appearing of record upon the proper records of the county.

47 4. Except as provided in subsection 5 of this section, nothing in this chapter shall be
48 construed to give a public utility, as defined in section 386.020, RSMo, or a rural electric
49 cooperative, as provided in chapter 394, RSMo, the power to condemn property which is
50 currently used by another provider of public utility service, including a municipality or a special
51 purpose district, when such property is used or useful in providing utility services, if the public
52 utility or cooperative seeking to condemn such property, directly or indirectly, will use or
53 proposes to use the property for the same purpose, or a purpose substantially similar to the
54 purpose that the property is being used by the provider of the public utility service.

55 5. A public utility or a rural electric cooperative may only condemn the property of
56 another provider of public utility service, even if the property is used or useful in providing
57 utility services by such provider, if the condemnation is necessary for the public purpose of
58 acquiring a nonexclusive easement or right-of-way across the property of such provider and only
59 if the acquisition will not materially impair or interfere with the current use of such property by
60 the utility or cooperative and will not prevent or materially impair such provider of public utility
61 service from any future expansion of its facilities on such property.

62 6. If a public utility or rural electric cooperative seeks to condemn the property of
63 another provider of public utility service, and the conditions in subsection 4 of this section do
64 not apply, this section does not limit the condemnation powers otherwise possessed by such
65 public utility or rural electric cooperative.

523.030. Upon the filing of the petition, a summons shall be issued, giving such owner
2 at least ten days' notice of the time when said petition will be heard, which summons shall be
3 served by the sheriff of the county, in the same manner as writs of summons are or may be by
4 law required to be served. If the name or residence of the owner is unknown, or if the owners,
5 or any of them, do not reside within the state, notice of the time of hearing the petition, reciting
6 the substance of the petition and the day fixed for the hearing thereof, shall be given by
7 publication once each week for three consecutive weeks prior to the time of hearing the petition,
8 in a newspaper published in the county in which the proceedings are pending, if one is published
9 in the county, or if no newspaper is published in the county, or the publisher shall refuse to
10 publish the same on tender of his usual charges for advertising, then by posting up said notice
11 for three consecutive weeks at the door of the courthouse of the county wherein the lands or any
12 portion of them lie. **The petition shall be heard no later than five days after the court
13 appoints the three disinterested commissioners with the parties' appraisers' approval.**

523.040. The court, or judge thereof in vacation, on being satisfied that due notice of the
2 pendency of the petition has been given, shall appoint three disinterested commissioners, who
3 shall be [residents of the county in which the real estate or a part thereof is situated] **either the
4 county assessor for the county in which the property is located or a deputy county assessor**

5 **appointed by the county assessor for the purpose of serving as the neutral and disinterested**
6 **commissioner**, to assess the damages which the owners may severally sustain by reason of such
7 appropriation, who, after having viewed the property, shall return to the clerk of such court,
8 under oath, their report in duplicate, of such assessment of damages, setting forth the amount of
9 damages allowed to the person or persons named as owning or claiming the tract of land
10 condemned, and should more than one tract be condemned in the petition, then the damages
11 allowed to the owner, owners, claimant or claimants of each tract, respectively, shall be stated
12 separately, together with a specific description of the tracts for which such damages are assessed
13 **and copies of all documents submitted to the commissioner by appraisers selected under**
14 **section 523.011 for the condemning entity and condemnee**; and the clerk shall file one copy
15 of said report in his **or her** office and record the same in the order book of the court, and [he]
16 shall deliver the other copy, duly certified by him **or her**, to the recorder of deeds of the county
17 where the land lies (or to the recorder of deeds of the city of St. Louis, if the land lies in said city)
18 who shall record the same in his **or her** office, and index each tract separately as provided in
19 section 59.440, RSMo, and the fee for so recording shall be taxed by the clerk as costs in the
20 proceedings; and thereupon such company shall pay to the clerk the amount thus assessed for the
21 party in whose favor such damages have been assessed; and on making such payment it shall be
22 lawful for such company to hold the interest in the property so appropriated for the uses
23 prescribed in this section; and upon failure to pay the assessment, the court may, upon motion
24 and notice by the party entitled to such damages, enforce the payment of the same by execution,
25 unless the said company shall, within ten days from the return of such assessment, elect to
26 abandon the proposed appropriation of any parcel of land, by an instrument in writing to that
27 effect, to be filed with the clerk of the court, and entered on the minutes of the court, and as to
28 so much as is thus abandoned, the assessment of damages shall be void.

523.110. 1. When any entity with condemnation authority negotiates with a
2 **property owner to acquire any property interest which may eventually be acquired**
3 **through formal eminent domain proceedings, the condemning entity shall provide the**
4 **owner of the property a form containing a written summary of the rights of an owner of**
5 **property to be acquired under this chapter via certified mail return receipt requested. If**
6 **the condemning authority does not supply the owner of the real property with this form,**
7 **a presumption shall exist that any sale or contract entered into between the condemning**
8 **authority and the owner was not voluntary and the condemning authority may be held**
9 **responsible for any relief, if any, as the court may determine to be appropriate considering**
10 **all of the facts and circumstances, including, but not limited to, an award of punitive**
11 **damages.**

12 **2. Proof that the condemning authority supplied the owner of real property with**
13 **the summary of rights set forth in subsection 1 of this section may only be introduced by**
14 **a signed notice of receipt via certified mail by the landowner.**

523.115. 1. Before proceeding to acquire any property interest by condemnation,
2 **a condemning entity must give notice of such intent, together with a description of the**
3 **property interest to be acquired, notice of the property owners' right to a hearing, and**
4 **notice that the decision determined at that hearing may be appealed to be heard by a jury**
5 **of peers, to anyone having an interest of record in the property involved. Such notice shall**
6 **advise that the condemning authority shall pay the reasonable costs of an appraisal**
7 **pursuant to subsection 2 of this section. Such notice, however, need not be given to any of**
8 **such persons who cannot be found by the condemning authority upon the exercise of due**
9 **diligence. Upon receipt of such notice, such persons may employ an appraiser of their**
10 **choosing to appraise the property interest to be acquired. Such appraisal shall be made**
11 **using sound, fair, and recognized appraisal practices which are consistent with law. The**
12 **value of the land or property actually taken shall be the fair market value thereof. Within**
13 **ninety days of the date of such notice, such persons may submit to the condemning**
14 **authority a copy of such appraisal. The condemning authority shall, immediately upon**
15 **receipt thereof, submit to such persons copies of its appraisals. If the property interest is**
16 **being acquired in relation to a federal aid project, the appraisals submitted by the**
17 **condemning authority shall be those which have been approved by it pursuant to**
18 **applicable statutes and regulations, if such approval is required. All such appraisals may**
19 **be used by the parties to negotiate in good faith for the acquisition of the property interest,**
20 **but only the condemning authority shall be bound by such appraisals.**

21 **2. If an appraisal is submitted to the condemning entity in accordance with the**
22 **provisions of subsection 1 of this section, the condemning entity shall pay the reasonable**
23 **costs of such appraisal. If more than one person is interested in the property sought to be**
24 **acquired and such persons cannot agree on an appraisal to be submitted under subsection**
25 **1 of this section, the condemning entity shall be relieved of any obligation imposed upon**
26 **it to pay for such appraisals as may be submitted to it pursuant to this section.**

27 **3. Nothing in this section shall be construed as limiting in any way the obligation**
28 **of the condemning entity to negotiate in good faith for the acquisition of any property**
29 **interest sought prior to instituting eminent domain proceedings or as limiting in any way**
30 **the discovery rights of parties to eminent domain proceedings.**

31 **4. Nothing in this section shall prevent the condemning entity from complying with**
32 **federal and state requirements to qualify the authority for federal aid grants.**

33 **5. A condemning entity shall not make an offer to purchase the property or**
34 **property interest that is less than the fair market value the condemning entity has**
35 **established for the property or property interest pursuant to the appraisal required in**
36 **subsection 1 of this section. A condemning entity need not make an offer in excess of that**
37 **amount in order to satisfy the requirement to negotiate in good faith.**

38 **6. No later than ten days before the formal filing of a petition under section**
39 **523.010, the condemning entity must make an offer to purchase the desired property or**
40 **property interest in the form prescribed in subsection 7 of this section.**

41 **7. The offer shall be substantially in the following form:**

42

43 **..... (condemner) is authorized by (specific Missouri law granting authorization) to**
44 **obtain your property or an easement across your property for certain public purposes.....**
45 **needs (easement or other property interest) across your property and needs to take**
46 **(legal description of the property or easement to be taken; the legal description may be**
47 **made on a separate sheet and attached to this document if additional space is required).**

48

49 **It is your opinion that the fair market value of the(property or easement) we want to**
50 **acquire from you is \$....., and, therefore,(condemner) offers you \$....., for the above**
51 **described(property or easement). You have ten days from(date of offer) to**
52 **accept this offer. If you do not accept, (condemner) will initiate eminent domain**
53 **proceedings by filing a petition under section 523.010, RSMo.**

54

55 **If you wish to challenge the legality of this taking, a hearing will be held on the tenth day**
56 **after the filing of the petition. If you only wish to challenge the amount of compensation**
57 **offered, a hearing will be held on the tenth day if we can come to an agreement on an**
58 **acceptable third-party neutral and detached commissioner to determine compensation.**
59 **If we cannot come to such an agreement, the court will order the county assessor or a**
60 **deputy county assessor to serve as the neutral and detached commissioner to determine just**
61 **compensation. If you do not agree with the compensation determined by the neutral and**
62 **detached commissioner, you may appeal the issue of just compensation to a jury.**

63 **8. Upon submitting an offer complying with the requirements of subsection 7 of this**
64 **section, the condemning entity shall file a copy of such offer in the office of the county**
65 **recorder of the county in which the property or property interest is located on the same**
66 **day as which it submits such offer to the condemnee.**

67 **9. If the condemning entity and the condemnee fail to reach agreement and the**
68 **action proceeds to trial before a commissioner as provided by section 523.040 or before a**

69 jury, and the amount of damages awarded the condemnee by the judgment, exclusive of
70 interest and costs, is twenty percent greater than the amount specified in offer as specified
71 in subsection 7 of this section, the court shall allow the condemnee the condemnee's
72 litigation expenses in an amount not to exceed two thousand five hundred dollars. If the
73 amount of damages awarded to the condemnee by judgment, exclusive of interest and costs,
74 is fifty percent greater than the amount specified in such offer, the condemning entity shall
75 pay the litigation expenses of the condemnee in an amount not to exceed two thousand five
76 hundred dollars and double damages on that proportion of damages awarded that exceeds
77 twenty percent more than such offer.

523.120. 1. Property interests acquired by entities by either formal eminent domain
2 proceedings or by negotiations in lieu of formal eminent domain proceedings are fixed and
3 determined by the particular use for which the property was condemned, sought to be
4 condemned, or negotiated for in lieu of formal condemnation proceedings. Absent the
5 permission of the prior owner, no entity may make a different or greater use, in character
6 or extent, through unilateral expansion. If the entity desires expansion of use, it may only
7 acquire the rights to expansion through eminent domain or negotiation.

8 2. Before the property interest may be offered for sale for a use other than the
9 particular use, fixed and determined, for which the property was condemned, the entity
10 shall notify the prior owner of the property interest in writing of the following:

11 (1) The entity's intent to dispose of the property interest;

12 (2) The current appraised value of the property interest; and

13 (3) The prior owner's right to purchase the property interest within sixty days from
14 the date the notice is served at a price equal to the current appraised value of the property
15 interest.

16
17 The notice sent by the entity as provided in this subsection shall be filed with the office of
18 the recorder in the county in which the real property is located.

19 3. Where any entity, after complying with the requirements of subsections 1 and
20 2 of this section, later sells any property interest subject to subsection 1 of this section, the
21 entity shall pay to the prior owner of such property interest the difference between the
22 price at which property interest was originally acquired by the entity and the price at
23 which it was sold by the entity less the cost of any improvements made to or benefiting the
24 land by the entity.

25 4. Use of the uniform property or acquisition offer as provided in subsection 7 of
26 section 523.115 is conclusive proof that a property interest was acquired by negotiations

27 in lieu of eminent domain proceedings. Such document is also exclusive proof that a
28 property interest was acquired by negotiations in lieu of eminent domain proceedings.

2 523.125. 1. In any action to condemn property, if at the request of either party, the
3 court makes a finding of what is a reasonable time for commencement of construction and
4 use of all the property sought to be condemned and the construction and use of all the
5 property sought to be condemned and the construction and use is not accomplished within
6 the time specified, the condemnee may file an action against the condemner to set aside the
7 condemnation of the entire property interest or any portion thereof upon which
8 construction and use was to have taken place. In no case, shall the period of time described
9 herein be for a period of longer than ten years. The provisions of this section shall also
10 apply to any relevant provision of a uniform property or easement offer agreed upon by
11 the potential condemnee and condemner through settlement negotiations entered into in
12 lieu of formal condemnation proceedings.

13 2. In such action, if the court finds that the condemner, without reasonable
14 justification, did not commence or complete construction and use within the time specified,
15 it shall enter judgment fixing the amount the condemner has paid the condemnee, as a
16 result of condemnation and all amounts due the condemnee as damages sustained by
17 reason of condemnation, including damages resulting from partial completion of the
18 contemplated use, plus all reasonable and necessary expenses actually incurred by the
19 condemnee including attorney's fees.

20 3. If amounts due the condemnee under subsection 2 of this section exceed amounts
21 paid by the condemner, or these amounts are equal, judgment shall be entered in favor of
22 the condemnee, which judgment shall describe the property condemned and award
23 judgment for any amounts due the condemnee. A copy of the judgment shall be filed in the
24 office of the county recorder of the county, and thereupon the property interest described
25 therein shall vest in the condemnee.

26 4. If amounts paid by the condemner under subsection 2 of this section exceed
27 amounts due the condemnee, judgment shall be entered describing the property
28 condemned and giving the condemnee sixty days from the date thereof to pay the
29 difference between the amounts to the condemner. If payment is made, the court shall
30 amend the judgment to reflect such payment and order the amended judgment filed with
31 the office of the county recorder of the county, and thereupon the property described
32 therein shall vest in the condemnee. If payment is not made, the court shall amend the
33 judgment to reflect nonpayment and order the amended judgment filed with the county
34 recorder of the county.

**523.130. Where any entity causes damage, in conjunction with its activities related
2 to property interests acquired by either formal eminent domain proceedings or by
3 negotiations in lieu of formal eminent domain proceedings, to any property interest of the
4 condemnee in excess of compensation paid to the condemnee for the property interest of
5 the entity, the condemnee shall have five years in which to file a claim for such damages.**