

SECOND REGULAR SESSION

HOUSE BILL NO. 1193

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CUNNINGHAM (86) (Sponsor) AND MOORE (Co-sponsor).

Pre-filed December 28, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3556L.01I

AN ACT

To amend chapter 100, RSMo, by adding thereto one new section relating to eminent domain displacement payments.

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

Section A. Chapter 100, RSMo, is amended by adding thereto one new section, to be
2 known as section 100.900, to read as follows:

100.900. 1. As used in this section, the following terms mean:

2 **(1) "Director", the director of the department of economic development;**

3 **(2) "Displaced person", any private person or entity which has been displaced or**
4 **otherwise required to physically vacate otherwise lawfully owned property due to the use**
5 **of eminent domain for subsequent use by any revenue-generating enterprise;**

6 **(3) "Eminent domain user", any development agency, as defined in section 100.255,**
7 **board, commission, agency, political subdivision, corporation, utility, or any other public**
8 **or private entity with the power of eminent domain;**

9 **(4) "Public purpose", a taking by a governmental body that is or will be used by**
10 **private individuals or corporations to sell, lease, rent, or otherwise provide a product or**
11 **service for financial compensation;**

12 **(5) "Public use", a taking by a governmental body to further governmental needs,**
13 **provided that such needs do not conflict with the intent or purpose of takings for a public**
14 **purpose;**

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.

15 (6) "Revenue-generating enterprise", any sole proprietorship, partnership,
16 corporation, or other business entity which produces income subject to tax under chapter
17 143, RSMo.

18 2. Notwithstanding any provision of law to the contrary, any displaced person shall
19 receive a share of a revenue-generating enterprise's Missouri-source gross income as
20 provided in this section. The eminent domain user shall, upon the implementation of any
21 development or redevelopment plan for a public purpose, calculate the combined square
22 footage of all buildings and structures in the area to be condemned and shall calculate the
23 ratio by which the square footage of each displaced person's real property bears to the
24 combined total of all displaced persons' real property in the area to be condemned. The
25 eminent domain user shall provide the director with all square footage information within
26 sixty days of such calculation.

27 3. For all projects for a public purpose completed on or after January 1, 2007, each
28 revenue-generating enterprise shall pay, no later than thirty days after filing an income tax
29 return under section 143.511, RSMo, an amount equal to two percent of the amount
30 reported as Missouri-source gross income to the "Missouri Condemnation Proceeds Equity
31 Fund", which is hereby established in the state treasury to be administered by the
32 department of economic development. Amounts shall be segregated by redevelopment area
33 or other contiguous area which has been subjected to eminent domain. The department
34 shall annually pay from the fund, for a period of twenty years from the date the project is
35 completed, a share of the total amount received from all revenue-generating enterprises in
36 each such area to each displaced person based on that person's proportionate share of
37 square footage in that area. Upon the death of the person to whom the payment is to be
38 made within the twenty-year period, the right to such payment shall be considered part of
39 the decedent's estate and subject to testate or intestate distribution. If the property is sold,
40 transferred, or otherwise devised to another party or parties during the twenty-year
41 period, the new owner or owners shall assume the responsibility for the remaining
42 payments as provided by this section. All administrative expenses incurred by the
43 department of economic development in implementing this section shall be paid from the
44 fund.

45 4. This section shall apply to any property taken by eminent domain for a public
46 use but which has been redeveloped or subject to a new development or redevelopment
47 plan for a public purpose within seven years from the date of the initial order or ordinance.
48 Property owners of record as of the date of the new plan shall receive payment as provided
49 in subsection 3 of this section.

50 **5. The director may require any revenue-generating enterprise to submit income**
51 **tax returns for any taxable period in question for the sole purpose of determining**
52 **compliance with this section. Such requirement shall not be deemed to violate the**
53 **provisions of section 32.057, RSMo.**

54 **6. The department of revenue shall clearly designate on each income tax return**
55 **required to be filed under section 143.481, RSMo, a line indicating the amount of gross**
56 **income from sources within this state as determined according to section 143.451, RSMo.**
57 **Such amount shall be considered as Missouri-source gross income for purposes of**
58 **subsection 3 of this section.**

59 **7. The director may promulgate rules for the enforcement of this section. Any rule**
60 **or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under**
61 **the authority delegated in this section shall become effective only if it complies with and**
62 **is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,**
63 **RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers**
64 **vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the**
65 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**
66 **then the grant of rulemaking authority and any rule proposed or adopted after August 28,**
67 **2006, shall be invalid and void.**

68 **8. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:**

69 **(1) The provisions of the new program authorized under this section shall**
70 **automatically sunset 6 years after the effective date of this section unless reauthorized by**
71 **an act of the general assembly; and**

72 **(2) If such program is reauthorized, the program authorized under this section**
73 **shall automatically sunset 6 years after the effective date of the reauthorization of this**
74 **section; and**

75 **(3) This section shall terminate on September first of the calendar year immediately**
76 **following the calendar year in which the program authorized under this section is sunset.**

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