

SECOND REGULAR SESSION

HOUSE BILL NO. 2144

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DONNELLY.

Read 1st time March 31, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5711L.01I

AN ACT

To repeal sections 523.040 and 523.205, RSMo, and to enact in lieu thereof three new sections relating to eminent domain.

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

Section A. Sections 523.040 and 523.205, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 523.040, 523.205, and 523.300, to read as
3 follows:

523.040. **1.** The court, or judge thereof in vacation, on being satisfied that due notice
2 of the pendency of the petition has been given, shall appoint three disinterested commissioners,
3 who shall be residents of the county in which the real estate or a part thereof is situated, to assess
4 the damages which the owners may severally sustain by reason of such appropriation, who, after
5 having viewed the property, shall return to the clerk of such court, under oath, their report in
6 duplicate, of such assessment of damages, setting forth the amount of damages allowed to the
7 person or persons named as owning or claiming the tract of land condemned, and should more
8 than one tract be condemned in the petition, then the damages allowed to the owner, owners,
9 claimant or claimants of each tract, respectively, shall be stated separately, together with a
10 specific description of the tracts for which such damages are assessed; and the clerk shall file one
11 copy of said report in his office and record the same in the order book of the court, and he shall
12 deliver the other copy, duly certified by him, to the recorder of deeds of the county where the
13 land lies (or to the recorder of deeds of the city of St. Louis, if the land lies in said city) who shall
14 record the same in his office, and index each tract separately as provided in section 59.440,

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 RSMo, and the fee for so recording shall be taxed by the clerk as costs in the proceedings; and
16 thereupon such company shall pay to the clerk the amount thus assessed for the party in whose
17 favor such damages have been assessed; and on making such payment it shall be lawful for such
18 company to hold the interest in the property so appropriated for the uses prescribed in this
19 section; and upon failure to pay the assessment, the court may, upon motion and notice by the
20 party entitled to such damages, enforce the payment of the same by execution, unless the said
21 company shall, within ten days from the return of such assessment, elect to abandon the proposed
22 appropriation of any parcel of land, by an instrument in writing to that effect, to be filed with the
23 clerk of the court, and entered on the minutes of the court, and as to so much as is thus
24 abandoned, the assessment of damages shall be void.

25 **2. In addition to the damages determined under this section, each owner entitled**
26 **to damages shall receive a payment equal to or greater than fifty percent of the fair market**
27 **value of such property.**

523.205. 1. Any public agency as defined in section 523.200 which is required, as a
2 condition to the receipt of federal funds, to give relocation assistance to any displaced person is
3 hereby authorized and directed to give similar relocation assistance to displaced persons when
4 the property involved is being acquired for the same public purpose through the same procedures,
5 and is being purchased solely through expenditure of state or local funds.

6 2. The governing body of any city, or agency thereof, prior to approval of a plan, project
7 or area for redevelopment under the operation of chapter 99, RSMo, chapter 100, RSMo, or
8 chapter 353, RSMo, which proposes or includes within its provisions or necessitates
9 displacement of persons, when such displacement is not subject to the provisions of the Federal
10 Uniform Relocation and Real Property Acquisition Policies Act of 1970 (42 U.S.C. sections
11 4601 to 4655, as amended) or subsection 1 of this section, shall establish by ordinance or rule
12 a relocation policy which shall include, but not be limited to, the provisions and requirements
13 of subsections 2 to 15 of this section, or in lieu thereof, such relocation policy shall contain
14 provisions and requirements which are equivalent to the requirements of the Federal Uniform
15 Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. sections
16 4601 to 4655, as amended).

17 3. As used in this section, the following terms shall mean:

18 (1) "Business", any lawful activity that is conducted:

19 (a) Primarily for the purchase, sale or use of personal or real property or for the
20 manufacture, processing or marketing of products or commodities; or

21 (b) Primarily for the sale of services to the public;

22 (2) "Decent, safe and sanitary dwelling", a dwelling which meets applicable housing and
23 occupancy codes. The dwelling shall:

- 24 (a) Be structurally sound, weathertight and in good repair;
25 (b) Contain a safe electrical wiring system;
26 (c) Contain an adequate heating system;
27 (d) Be adequate in size with respect to the number of rooms needed to accommodate the
28 displaced person; and
29 (e) For a handicapped person, be free of any barriers which would preclude reasonable
30 ingress, egress or use of the dwelling;
- 31 (3) "Handicapped person", any person who is deaf, legally blind or orthopedically
32 disabled to the extent that acquisition of another residence presents a greater burden than other
33 persons would encounter or to the extent that modifications to the replacement residence would
34 be necessary;
- 35 (4) "Initiation of negotiations", the delivery of the initial written offer of just
36 compensation by the acquiring entity, to the owner of the real property, to purchase such real
37 property for the project, or the notice to the person that he will be displaced by rehabilitation or
38 demolition;
- 39 (5) "Person", any individual, family, partnership, corporation, or association.
- 40 4. Every urban redevelopment corporation acquiring property within a redevelopment
41 area shall submit a relocation plan as part of the redevelopment plan.
- 42 5. Unless the property acquisition under the operation of chapter 99, RSMo, chapter 100,
43 RSMo, or chapter 353, RSMo, is subject to federal relocation standards or subsection 1 of this
44 section, the relocation plan shall provide for the following:
- 45 (1) Payments to all eligible displaced persons, as defined, who occupied the property to
46 be acquired for not less than ninety days prior to the initiation of negotiations who are required
47 to vacate the premises;
- 48 (2) A program for identifying special needs of displaced persons with specific
49 consideration given to income, age, size of family, nature of business, availability of suitable
50 replacement facilities and vacancy rates of affordable facilities;
- 51 (3) A program for referrals of displaced persons with provisions for a minimum of three
52 decent, safe and sanitary housing referrals for residential persons or suitable referral sites for
53 displaced businesses, a minimum of ninety days' notice of referral sites for handicapped
54 displaced persons and sixty days' notice of referral sites for all other displaced persons prior to
55 the date such displaced persons are required to vacate the premises, and arrangements for
56 transportation to inspect referral sites; and
- 57 (4) Every displaced person shall be given a ninety-day notice to vacate, prior to the date
58 such displaced person is required to vacate the premises.

59 6. All displaced residential persons eligible for payments shall be provided with
60 relocation payments based upon one of the following, at the option of the person:

61 (1) A five-hundred-dollar fixed payment; or

62 (2) Actual reasonable costs of relocation including actual moving costs, utility deposits,
63 key deposits, storage of personal property up to one month, utility transfer and connection fees
64 and other initial rehousing deposits including first and last month's rent and security deposit.

65 7. All displaced businesses eligible for payments shall be provided with relocation
66 payments based upon the following, at the option of the business:

67 (1) A one-thousand-five-hundred-dollar fixed payment; or

68 (2) Actual costs of moving including costs for packing, crating, disconnection,
69 dismantling, reassembling and installing all personal equipment and costs for relettering similar
70 signs and similar replacement stationery; **and**

71 **(3) The value of the displaced person's direct loss of tangible personal property**
72 **incurred as a result of relocating his or her business and the actual and reasonable**
73 **expenses to reestablish his or her business.**

74 8. If a displaced person demonstrates the need for an advance relocation payment, in
75 order to avoid or reduce a hardship, the developer or public agency shall issue the payment
76 subject to such safeguards as are appropriate to ensure that the objective of the payment is
77 accomplished. Payment for a satisfactory claim shall be made within thirty days following
78 receipt of sufficient documentation to support the claim. All claims for relocation payment shall
79 be filed with the displacing agency within six months after:

80 (1) For tenants, the date of displacement;

81 (2) For owners, the date of displacement or the final payment for the acquisition of the
82 real property, whichever is later.

83 9. Any displaced person, who is also the owner of the premises, may waive relocation
84 payments as part of the negotiations for acquisition of the interest held by such person. Such
85 waiver shall be in writing, shall disclose the person's knowledge of the provisions of this section
86 and his entitlement to payment and shall be filed with the acquiring public agency.

87 10. All persons eligible for relocation benefits shall be notified in writing of the
88 availability of such relocation payments and assistance, with such notice to be given concurrently
89 with the notice of referral sites as required in subdivision (3) of subsection 5 of this section.

90 11. Any urban redevelopment corporation, its assigns or transferees, which have been
91 provided any assistance under the operation of chapter 99, RSMo, chapter 100, RSMo, chapter
92 353, RSMo, or this chapter, with land acquisition by the local governing body, shall be required
93 to make a report to the local governing body or appropriate public agency which shall include,
94 but not be limited to, the addresses of all occupied residential buildings and structures within the

95 redevelopment area and the names and addresses of persons displaced by the redeveloper and
96 specific relocation benefits provided to each person, as well as a sample notice provided to each
97 person.

98 12. An urban redevelopment corporation which fails to comply with the relocation
99 requirements provided in this section shall not be eligible for tax abatement as provided for in
100 chapter 353, RSMo.

101 13. The requirements set out in this section shall be considered minimum standards. In
102 reviewing any proposed relocation plan under the operation of chapter 99, RSMo, chapter 100,
103 RSMo, or chapter 353, RSMo, the local governing body or public agency shall determine the
104 adequacy of the proposal and may require additional elements to be provided.

105 14. Relocation assistance shall not be provided to any person who purposely resides or
106 locates his business in a redevelopment area solely for the purpose of obtaining relocation
107 benefits.

108 15. The provisions of sections 523.200 and 523.205 shall apply to land acquisitions
109 under the operation of chapter 99, RSMo, chapter 100, RSMo, or chapter 353, RSMo, filed for
110 approval, approved or amended on or after August 31, 1991.

**523.300. Notwithstanding any other provision of law to the contrary, in any action
2 to condemn real property under the power of eminent domain, no condemnation petition
3 shall be accepted for filing unless it provides documented evidence that the initial offer to
4 purchase the interest in real property by the condemning authority was equal to or greater
5 than the value reflected in an appraisal by a licensed or certified appraiser, using sound,
6 fair, and recognized appraisal practices consistent with those of the Uniform Standards of
7 Professional Appraisal Practice in effect at that time.**

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