

SECOND REGULAR SESSION

# HOUSE BILL NO. 1973

## 95TH GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVES BIVINS (Sponsor) AND GRISAMORE (Co-sponsor).

4560L.011

D. ADAM CRUMBLISS, Chief Clerk

---

### AN ACT

To repeal section 523.040, RSMo, and to enact in lieu thereof one new section relating to commissioners appointed in condemnation proceedings.

---

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

Section A. Section 523.040, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 523.040, to read as follows:

523.040. 1. The court, or judge thereof in vacation, on being satisfied that due notice of the pendency of the petition has been given, shall appoint three disinterested commissioners, who shall be residents of the county in which the real estate or a part thereof is situated **and at least two of whom shall be either a licensed real estate broker or a state-licensed or state-certified real estate appraiser**, to assess the damages which the owners may severally sustain by reason of such appropriation, who, within forty-five days after appointment by the court, which forty-five days may be extended by the court to a date certain with good cause shown, after applying the definition of fair market value contained in subdivision (1) of section 523.001, and after having viewed the property, shall return to the clerk of such court, under oath, their report in duplicate of such assessment of damages, setting forth the amount of damages allowed to the person or persons named as owning or claiming the tract of land condemned, and should more than one tract be condemned in the petition, then the damages allowed to the owner, owners, claimant or claimants of each tract, respectively, shall be stated separately, together with a specific description of the tracts for which such damages are assessed; and the clerk shall file one copy of said report in his **or her** office and record the same in the order book of the court, and [he] **the clerk** shall deliver the other copy, duly certified by him **or her**, to the recorder of deeds of the county where the land lies (or to the recorder of deeds of the city of St. Louis, if the

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.

18 land lies in said city) who shall record the same in his **or her** office, and index each tract  
19 separately as provided in section 59.440, RSMo, and the fee for so recording shall be taxed by  
20 the clerk as costs in the proceedings; and thereupon such company shall pay to the clerk the  
21 amount thus assessed for the party in whose favor such damages have been assessed; and on  
22 making such payment it shall be lawful for such company to hold the interest in the property so  
23 appropriated for the uses prescribed in this section; and upon failure to pay the assessment, the  
24 court may, upon motion and notice by the party entitled to such damages, enforce the payment  
25 of the same by execution, unless the said company shall, within ten days from the return of such  
26 assessment, elect to abandon the proposed appropriation of any parcel of land, by an instrument  
27 in writing to that effect, to be filed with the clerk of the court, and entered on the minutes of the  
28 court, and as to so much as is thus abandoned, the assessment of damages shall be void.

29         2. Prior to the issuance of any report under subsection 1 of this section, a commissioner  
30 shall notify all parties named in the condemnation petition no less than ten days prior to the  
31 commissioners' viewing of the property of the named parties' opportunity to accompany the  
32 commissioners on the commissioners' viewing of the property and of the named parties'  
33 opportunity to present information to the commissioners.

34         3. The commissioners shall view the property, hear arguments, and review other relevant  
35 information that may be offered by the parties.

✓