

FIRST REGULAR SESSION

HOUSE BILL NO. 228

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SWAN.

0812H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 523.253 and 523.256, RSMo, and to enact in lieu thereof two new sections relating to condemnation proceedings.

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

Section A. Sections 523.253 and 523.256, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 523.253 and 523.256, to read as follows:

523.253. 1. A condemning authority shall present a written offer to all owners of record of the property. The offer must be made at least thirty days before filing a condemnation petition and shall be held open for the thirty-day period unless an agreement is reached sooner. The offer shall be deposited in the United States mail, certified or registered, and with postage prepaid, addressed to the owner of record as listed in the office of the city or county assessor for the city or county in which the property is located. The receipt issued to the condemning authority by the United States Post Office for certified or registered mail shall constitute proof of compliance with this requirement; provided, however, that nothing in this section shall preclude a condemning authority from proving compliance with this requirement by other competent evidence. Nothing in this section shall prohibit the parties from negotiating during the thirty-day period.

2. (1) Any condemning authority shall, at the time of the offer, provide the property owner with ~~[an appraisal or]~~ :

(a) A copy of the appraisal utilized for its determination of the value of the property for purposes of the offer made in subsection 1 of this section; or

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.

16 **(b) In cases when the offer is not based on an appraisal,** an explanation with
17 supporting financial data for its determination of the value of the property for purposes of the
18 offer made in subsection 1 of this section.

19 (2) Any appraisal referred to in this section shall be made by a state-licensed or
20 state-certified appraiser using generally accepted appraisal practices.

21 **3. Any offer by a condemning authority shall, at the time of the offer, provide the**
22 **property owner with a clear, concise, and understandable disclosure statement describing**
23 **the effects of the project on the property from which the proposed taking will occur**
24 **including, but not limited to:**

25 (1) **The loss or damage to trees, shrubbery, and other landscaping features;**

26 (2) **Changes to the number, location, grade, or width of methods of ingress and**
27 **egress to the property;**

28 (3) **Proposed medians or other traffic control mechanisms that may reduce or**
29 **impair existing access to the property;**

30 (4) **Changes to existing utility services;**

31 (5) **Loss or damage to growing crops; and**

32 (6) **The anticipated length of use of any temporary easements or other rights to be**
33 **acquired.**

34 **4. Any offer by a condemning authority to a property owner that does not comply**
35 **with the provisions of subsections 1, 2, and 3 of this section or is presented prior to the**
36 **notice of intended acquisition under section 523.250 shall be a nonconforming offer. For**
37 **the purposes of this section:**

38 (1) **An offer means any communication involving the condemning authority or a**
39 **person or entity acting on behalf of or at the direction of the condemning authority and a**
40 **property owner which includes a written or oral solicitation:**

41 (a) **Of an exchange of property rights for any form of consideration or by donation;**
42 **or**

43 (b) **To a property owner to express the amount of compensation that would be**
44 **acceptable to the property owner for an acquisition; and**

45 (2) **A nonconforming offer does not include or prohibit:**

46 (a) **Meetings with property owners to convey information relating to the project for**
47 **which an acquisition of property may be necessary;**

48 (b) **Communications made for purposes of complying with federal, state, or local**
49 **relocation requirements; and**

50 (c) **Communications that describe in general terms the condemning authority's**
51 **acquisition process and the manner in which compensation is determined by the**
52 **condemning authority.**

 523.256. Before a court may enter an order of condemnation, the court shall find that the
2 condemning authority engaged in good faith negotiations prior to filing the condemnation
3 petition. A condemning authority shall be deemed to have engaged in good faith negotiations
4 if:

5 (1) It has properly and timely given all notices to owners required by this chapter;

6 (2) Its offer under section 523.253 was no lower than the amount reflected in an
7 appraisal performed by a state-licensed or state-certified appraiser for the condemning authority,
8 provided an appraisal is given to the owner pursuant to subsection 2 of section 523.253 or, in
9 other cases, the offer is no lower than the amount provided in the basis for its determination of
10 the value of the property as provided to the owner under subsection 2 of section 523.253;

11 (3) ~~[The owner has been given an opportunity to obtain his or her own appraisal from a~~
12 ~~state-licensed or state-certified appraiser of his or her choice; and]~~ **There has been no**
13 **nonconforming offer as defined in subsection 3 of section 523.253 to a property owner for**
14 **any rights to any portion of the property up to two years prior to the date of filing of the**
15 **condemnation petition; and**

16 (4) Where applicable, it has considered an alternate location suggested by the owner
17 under section 523.265.

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19 If the court does not find that good faith negotiations have occurred, the court shall dismiss the
20 condemnation petition, without prejudice, and shall order the condemning authority to reimburse
21 the owner for his or her actual reasonable attorneys' fees and costs incurred with respect to the
22 condemnation proceeding which has been dismissed.

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