

SECOND REGULAR SESSION

# SENATE BILL NO. 776

95TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR DAYS.

Read 1st time January 14, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4078S.011

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## AN ACT

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

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*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Section A. Section 523.040, RSMo, is repealed and one new section  
2 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  
2 due notice of the pendency of the petition has been given, shall appoint three  
3 disinterested commissioners, who shall be residents of the county in which the  
4 real estate or a part thereof is situated **and at least two of whom shall be**  
5 **either a licensed real estate broker or a state-licensed or state-certified**  
6 **real estate appraiser**, to assess the damages which the owners may severally  
7 sustain by reason of such appropriation, who, within forty-five days after  
8 appointment by the court, which forty-five days may be extended by the court to  
9 a date certain with good cause shown, after applying the definition of fair market  
10 value contained in subdivision (1) of section 523.001, and after having viewed the  
11 property, shall return to the clerk of such court, under oath, their report in  
12 duplicate of such assessment of damages, setting forth the amount of damages  
13 allowed to the person or persons named as owning or claiming the tract of land  
14 condemned, and should more than one tract be condemned in the petition, then  
15 the damages allowed to the owner, owners, claimant or claimants of each tract,  
16 respectively, shall be stated separately, together with a specific description of the  
17 tracts for which such damages are assessed; and the clerk shall file one copy of  
18 said report in his office and record the same in the order book of the court, and  
19 he shall deliver the other copy, duly certified by him, to the recorder of deeds of  
20 the county where the land lies (or to the recorder of deeds of the city of St. Louis,

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

35           2. Prior to the issuance of any report under subsection 1 of this section,  
36 a commissioner shall notify all parties named in the condemnation petition no  
37 less than ten days prior to the commissioners' viewing of the property of the  
38 named parties' opportunity to accompany the commissioners on the  
39 commissioners' viewing of the property and of the named parties' opportunity to  
40 present information to the commissioners.

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

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