

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1944

93RD GENERAL ASSEMBLY

4100S.24T

2006

AN ACT

To repeal sections 99.120, 99.460, 100.420, 238.247, 353.130, 523.040, 523.055, 523.060, 523.200, and 523.205, RSMo, and to enact in lieu thereof twenty-eight new sections relating to eminent domain, with a severability clause.

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

Section A. Sections 99.120, 99.460, 100.420, 238.247, 353.130, 523.040, 523.055, 2 523.060, 523.200, and 523.205, RSMo, are repealed and twenty-eight new sections enacted in 3 lieu thereof, to be known as sections 99.120, 99.460, 100.420, 238.247, 353.130, 523.001, 4 523.039, 523.040, 523.055, 523.060, 523.061, 523.200, 523.205, 523.250, 523.253, 523.256, 5 523.259, 523.261, 523.262, 523.265, 523.271, 523.274, 523.277, 523.282, 523.283, 1, 2, and 3, 6 to read as follows:

99.120. An authority **whose board members are appointed by one or more elected** 2 **officials** shall have the right to acquire by the exercise of the power of eminent domain any real 3 property in fee simple or other estate which it may deem necessary for its purposes under 4 sections 99.010 to 99.230 after the adoption by it of a resolution declaring that the acquisition 5 of the real property described therein is necessary for such purposes. An authority may exercise 6 the power of eminent domain in the manner provided for corporations in chapter 523, RSMo[; 7 or it may exercise the power of eminent domain in the manner provided by any other applicable

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.

8 statutory provision for the exercise of the power of eminent domain]. Property already devoted
9 to a public use may be acquired in like manner, provided that no real property belonging to the
10 city, the county, the state or any political subdivision thereof may be acquired without its
11 consent.

99.460. 1. An authority **whose board members are appointed by one or more elected**
2 **officials** shall have the right to acquire by the exercise of the power of eminent domain any real
3 property which it may deem necessary for a land clearance project or for its purposes under this
4 law after the adoption by it of a resolution declaring that the acquisition of the real property
5 described therein is necessary for such purposes. An authority may exercise the power of
6 eminent domain in the manner and under the procedure provided for corporations in [sections
7 523.010 to 523.070, inclusive, and 523.090 and 523.100] **chapter 523**, RSMo, and acts
8 amendatory thereof or supplementary thereto[; or it may exercise the power of eminent domain
9 in the manner now or which may be hereafter provided by any other statutory provision available
10 to the community, and, as to an authority in a constitutional charter city in the manner provided
11 in the charter of said city for the exercise of the power of eminent domain] .

12 2. Property already devoted to a public use may be acquired in like manner, provided that
13 no real property belonging to the municipality, the county or the state may be acquired without
14 its consent.

100.420. 1. An authority **whose board members are appointed by one or more**
2 **elected officials** shall have the right to acquire by the exercise of the power of eminent domain
3 any real property which it may deem necessary for a project or for its purposes under this law
4 after the adoption by it of a resolution declaring that the acquisition of the real property described
5 therein is necessary for such purposes. Any authority may exercise the power of eminent domain
6 in the manner and under the procedure provided for corporations in [sections 523.010 to 523.070,
7 inclusive, and 523.090 and 523.100] **chapter 523**, RSMo, and acts amendatory thereof or
8 supplementary thereto[; or it may exercise the power of eminent domain in the manner now or
9 which may be hereafter provided by any other statutory provision available to the city, and, as
10 to an authority in a constitutional charter city, in the manner provided in the charter of said city
11 for the exercise of the power of eminent domain] .

12 2. Property already devoted to a public use may be acquired in like manner; provided that
13 no real property belonging to the municipality, the county or the state may be acquired without
14 its consent.

238.247. 1. The district may condemn lands for a project in the name of the state of
2 Missouri, upon prior approval by the commission, or the local transportation authority **and by**
3 **ordinance of the local governing body** as appropriate, as to the necessity for the taking of the
4 description of the parcel and the interest taken in that parcel.

5 2. If condemnation becomes necessary the district shall act under chapter 523, RSMo,
6 and may condemn a fee simple or other interest in land.

7 3. The district may, after prior notice to the owner to enter upon private property, survey
8 and determine the most advantageous route and design. The district shall be liable for all
9 damages done to the property by such inspection.

10 4. Any person who involuntarily transfers any interest in land to a district which becomes
11 insolvent and comes under the jurisdiction of a court may reacquire that property by paying to
12 the district the total amount of the condemnation award for that parcel, plus statutory interest at
13 the statutory rate from the date of taking on the amount of that award, if the project will not be
14 completed by either the district, the commission or a local transportation authority.

15 5. Whenever a district undertakes any project which results in the acquisition of real
16 property or in any person or persons being displaced from their homes, businesses, or farms, the
17 district shall provide relocation assistance and make relocation payments to such displaced
18 person and do such other acts and follow such procedures as would be necessary to comply with
19 the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970,
20 as amended.

 353.130. 1. An urban redevelopment corporation may acquire real property or secure
2 options in its own name or, in the name of nominees, it may acquire real property by gift, grant,
3 lease, purchase, or otherwise.

4 2. An urban redevelopment corporation **operating pursuant to a redevelopment**
5 **agreement with a municipality for a particular redevelopment area, which agreement was**
6 **executed prior to or on December 31, 2006**, shall have the right to acquire by the exercise of
7 the power of eminent domain any real property **in such redevelopment area** in fee simple or
8 other estate which is necessary to accomplish the purpose of this chapter, under such conditions
9 and only when so empowered by the legislative authority of the cities affected by this chapter.

10 3. An urban redevelopment corporation **operating pursuant to a redevelopment**
11 **agreement with a municipality for a particular redevelopment area, which agreement was**
12 **executed prior to or on December 31, 2006**, may exercise the power of eminent domain **in**
13 **such redevelopment area** in the manner provided for corporations in chapter 523, RSMo; or
14 it may exercise the power of eminent domain in the manner provided by any other applicable
15 statutory provision for the exercise of the power of eminent domain. Property already devoted
16 to a public use may be acquired in like manner, provided that no real property belonging to any
17 city, county, or the state, or any political subdivision thereof may be acquired without its consent.

523.001. For the purposes of this chapter, the following terms shall mean:

2 (1) **"Fair market value", the value of the property taken after considering**
3 **comparable sales in the area, capitalization of income, and replacement cost less**

4 depreciation, singularly or in combination, as appropriate, and additionally considering
5 the value of the property based upon its highest and best use, using generally accepted
6 appraisal practices. If less than the entire property is taken, fair market value shall mean
7 the difference between the fair market value of the entire property immediately prior to
8 the taking and the fair market value of the remaining or burdened property immediately
9 after the taking;

10 (2) "Heritage value", the value assigned to any real property, including but not
11 limited to, real property owned by a business enterprise with fewer than one hundred
12 employees, that has been owned within the same family for fifty or more years, such value
13 to be fifty percent of fair market value;

14 (3) "Homestead taking", any taking of a dwelling owned by the property owner
15 and functioning as the owner's primary place of residence or any taking of the owner's
16 property within three hundred feet of the owner's primary place of residence that prevents
17 the owner from utilizing the property in substantially the same manner as it is currently
18 being utilized.

523.039. In all condemnation proceedings filed after December 31, 2006, just
2 compensation for condemned property shall be determined under one of the three
3 following subdivisions, whichever yields the highest compensation, as applicable to the
4 particular type of property and taking:

5 (1) An amount equivalent to the fair market value of such property;

6 (2) For condemnations that result in a homestead taking, an amount equivalent to
7 the fair market value of such property multiplied by one hundred twenty-five percent; or

8 (3) For condemnations of property that result in any taking that prevents the owner
9 from utilizing property in substantially the same manner as it was currently being utilized
10 on the day of the taking and involving property owned within the same family for fifty or
11 more years, an amount equivalent to the sum of the fair market value and heritage value.
12 For the purposes of this subdivision, family ownership of property may be established
13 through evidence of ownership by children, grandchildren, siblings, or nephews or nieces
14 of the family member owning the property fifty years prior to the taking; and in addition,
15 may be established through marriage or adoption by such family members. If any entity
16 owns the real property, members of the family shall have an ownership interest in more
17 than fifty percent of the entity in order to be within the family line of ownership for the
18 purposes of this subdivision. The property owner shall have the burden of proving to the
19 commissioners or jury that the property has been owned within the same family for fifty
20 or more years.

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,
5 **within forty-five days after appointment by the court, which forty-five days may be**
6 **extended by the court to a date certain with good cause shown, after applying the definition**
7 **of fair market value contained in subdivision (1) of section 523.001, and** after having viewed
8 the property, shall return to the clerk of such court, under oath, their report in duplicate, of such
9 assessment of damages, setting forth the amount of damages allowed to the person or persons
10 named as owning or claiming the tract of land condemned, and should more than one tract be
11 condemned in the petition, then the damages allowed to the owner, owners, claimant or claimants
12 of each tract, respectively, shall be stated separately, together with a specific description of the
13 tracts for which such damages are assessed; and the clerk shall file one copy of said report in his
14 office and record the same in the order book of the court, and he shall deliver the other copy,
15 duly certified by him, to the recorder of deeds of the county where the land lies (or to the
16 recorder of deeds of the city of St. Louis, if the land lies in said city) who shall record the same
17 in his office, and index each tract separately as provided in section 59.440, RSMo, and the fee
18 for so recording shall be taxed by the clerk as costs in the proceedings; and thereupon such
19 company shall pay to the clerk the amount thus assessed for the party in whose favor such
20 damages have been assessed; and on making such payment it shall be lawful for such company
21 to hold the interest in the property so appropriated for the uses prescribed in this section; and
22 upon failure to pay the assessment, the court may, upon motion and notice by the party entitled
23 to such damages, enforce the payment of the same by execution, unless the said company shall,
24 within ten days from the return of such assessment, elect to abandon the proposed appropriation
25 of any parcel of land, by an instrument in writing to that effect, to be filed with the clerk of the
26 court, and entered on the minutes of the court, and as to so much as is thus abandoned, the
27 assessment of damages shall be void.

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

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

523.055. In any action to condemn lands under the power of eminent domain, where the
2 condemnor has paid into the office of the clerk of the circuit court the amount of damages

3 assessed by commissioners pursuant to law, the circuit clerk shall give the owners or those in
4 possession written notice of such fact within five days. If the owners or those in possession do
5 not deliver possession of the property condemned within ten days after the receipt of notice of
6 the payment of the award, then on the request of the condemnor the court shall issue a writ of
7 possession directing the sheriff to deliver the possession of such property to the condemnor
8 forthwith; except that the court may upon the motion of [said] **the occupants or** owners grant
9 them such extension of time, not to exceed ninety days, as the court finds to be reasonable under
10 all the circumstances. **However, any displaced owner of a principal place of residence shall**
11 **have one hundred days from the date of the award.** The writ of possession shall be executed
12 in the manner provided by law for the execution of writs of possession in ejectment suits for the
13 recovery of land. If a writ of possession is issued or a motion filed asking for an extension [by
14 said owners], then all costs accrued in executing the writ and in the hearing of the motion may
15 be assessed against the said owners.

523.060. 1. Any plaintiff or defendant, individual or corporate, shall have the right of
2 trial by jury of twelve persons, if either party file exceptions to the award of commissioners in
3 any condemnation case.

4 **2. Such jury shall use the definition of fair market value provided for in subdivision**
5 **(1) of section 523.001.**

523.061. **After the filing of the commissioners' report pursuant to section 523.040,**
2 **the circuit judge presiding over the condemnation proceeding shall apply the provisions**
3 **of section 523.039 and shall determine whether a homestead taking has occurred and shall**
4 **determine whether heritage value is payable and shall increase the commissioners' award**
5 **to provide for the additional compensation due where a homestead taking occurs or where**
6 **heritage value applies, in accordance with the just compensation provisions of section**
7 **523.039. If a jury trial of exceptions occurs under section 523.060, the circuit judge**
8 **presiding over the condemnation proceeding shall apply the provisions of section 523.039**
9 **and shall determine whether a homestead taking has occurred and shall determine whether**
10 **heritage value is payable and shall increase the jury verdict to provide for the additional**
11 **compensation due where a homestead taking occurs or where heritage value applies, in**
12 **accordance with the just compensation provisions of section 523.039.**

523.200. As used in sections 523.200 to 523.215, the following words mean:

2 (1) "Displaced person", any person that moves from the real property or moves his
3 personal property from the real property permanently and voluntarily as a direct result of the
4 acquisition, rehabilitation or demolition of, or the written notice of intent to acquire such real
5 property, in whole or in part, for a public purpose;

6 (2) "Public agency", the state of Missouri or any political subdivision or any branch,
7 bureau or department thereof, **any public school district**, and any quasi-public corporation
8 created or existing by law which are authorized to acquire real property for public purpose and
9 which acquire any such property either partly or wholly with aid or reimbursement from federal
10 funds;

11 (3) "Urban redevelopment corporation", as defined in section 353.020, RSMo.

12 523.205. 1. Any public agency as defined in section 523.200 which is required, as a
13 condition to the receipt of federal funds[,] to give relocation assistance to any displaced person,
14 is hereby authorized and directed to give similar relocation assistance to displaced persons when
15 the property involved is being acquired for the same public purpose through the same procedures,
16 and is being purchased solely through expenditure of state or local funds.

17 2. [The governing body of any city, or agency thereof, prior to approval of a plan, project
18 or area for redevelopment under the operation of chapter 99, RSMo, chapter 100, RSMo, or
19 chapter 353, RSMo,] **Any political subdivision, governmental entity, or corporation created
20 under chapter 353, RSMo, initiating condemnation proceedings** which [proposes or includes
21 within its provisions or necessitates] **may necessitate** displacement of persons, when such
22 displacement is not subject to the provisions of the Federal Uniform Relocation and Real
23 Property Acquisition Policies Act of 1970 (42 U.S.C. sections 4601 to 4655, as amended) or
24 subsection 1 of this section, shall establish by ordinance or rule a relocation policy which shall
25 include, but not be limited to, the provisions and requirements of subsections 2 to 15 of this
26 section, or in lieu thereof, such relocation policy shall contain provisions and requirements which
27 are equivalent to the requirements of the Federal Uniform Relocation Assistance and Real
28 Property Acquisition Policies Act of 1970 (42 U.S.C. sections 4601 to 4655, as amended).

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

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

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

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

(c) **On a not-for-profit basis by any organization that has obtained an exemption
from the payment of federal income taxes as provided in section 501(c)(3) of Title 26,
U.S.C., as amended, and veterans organizations;**

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

(a) Be structurally sound, weathertight and in good repair;

(b) Contain a safe electrical wiring system;

(c) Contain an adequate heating system;

31 (d) Be adequate in size with respect to the number of rooms needed to accommodate the
32 displaced person; and

33 (e) For a handicapped person, be free of any barriers which would preclude reasonable
34 ingress, egress or use of the dwelling;

35 (3) "Handicapped person", any person who is deaf, legally blind or orthopedically
36 disabled to the extent that acquisition of another residence presents a greater burden than other
37 persons would encounter or to the extent that modifications to the replacement residence would
38 be necessary;

39 (4) ["Initiation of negotiations", the delivery of the initial written offer of just
40 compensation by the acquiring entity, to the owner of the real property, to purchase such real
41 property for the project, or the notice to the person that he will be displaced by rehabilitation or
42 demolition;

43 (5)] "Person", any individual, family, partnership, corporation, or association, **that has**
44 **a legal right to occupy the property, including but not limited to, month-to-month tenants.**

45 4. Every urban redevelopment corporation acquiring property within a redevelopment
46 area shall submit a relocation plan as part of the redevelopment plan.

47 5. Unless the property acquisition under the operation of chapter 99, RSMo, chapter 100,
48 RSMo, or chapter 353, RSMo, is subject to federal relocation standards or subsection 1 of this
49 section, the relocation plan shall provide for the following:

50 (1) Payments to all eligible displaced persons, as defined **in section 523.200**, who
51 occupied the property to be acquired for not less than ninety days prior to the initiation of
52 negotiations who are required to vacate the premises;

53 (2) A program for identifying special needs of displaced persons with specific
54 consideration given to income, age, size of family, nature of business, availability of suitable
55 replacement facilities and vacancy rates of affordable facilities;

56 (3) **A program for providing proper and timely notice to all displaced persons,**
57 **including a general description of their potential rights and benefits if they are displaced,**
58 **their eligibility for relocation assistance, and the nature of that assistance. The notices**
59 **required for compliance with this section are as follows:**

60 (a) **A general information notice that shall be issued at the approval and selection**
61 **of a designated redeveloper and shall inform residential and nonresidential owners and**
62 **occupants of a potential project, including the potential acquisition of the property;**

63 (b) **A notice of relocation eligibility that shall be issued as soon as feasible after the**
64 **execution of the redevelopment agreement and shall inform residential and nonresidential**
65 **occupants within the project area who will be displaced of their relocation assistance and**

66 **nature of that assistance, including ninety days advance notice of the date the occupants**
67 **must vacate;**

68 (4) A program for referrals of displaced persons with provisions for a minimum of three
69 decent, safe and sanitary housing referrals for residential persons or suitable referral sites for
70 displaced businesses, a minimum of ninety days' notice of referral sites for [handicapped
71 displaced persons and sixty days' notice of referral sites for] all [other] displaced persons prior
72 to the date such displaced persons are required to vacate the premises, and arrangements for
73 transportation to inspect referral sites; and

74 [(4)] (5) Every displaced person shall be given a ninety-day notice to vacate, prior to the
75 date such displaced person is required to vacate the premises.

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

78 (1) A [five-hundred-dollar] **one thousand dollar** fixed **moving expense** payment; or
79 (2) Actual reasonable costs of relocation including, **but not limited to**, actual moving
80 costs, utility deposits, key deposits, storage of personal property up to one month, utility transfer
81 and connection fees and other initial rehousing deposits including first and last month's rent and
82 security deposit. **Such costs of relocation shall not include the cost of a replacement**
83 **property or any capital improvements thereto.**

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

86 (1) A [one-thousand-five-hundred-dollar] **three thousand dollar** fixed **moving expense**
87 **payment and up to an additional ten thousand dollars for reestablishment expenses.**
88 **Reestablishment expenses are limited to costs incurred for physical improvements to the**
89 **replacement property to accommodate the particular business at issue; or**

90 (2) Actual costs of moving including costs for packing, crating, disconnection,
91 dismantling, reassembling and installing all personal equipment and costs for relettering similar
92 signs and similar replacement stationery, **and up to an additional ten thousand dollars for**
93 **reestablishment expenses. Reestablishment expenses are limited to actual costs incurred**
94 **for physical improvements to the replacement property to accommodate the particular**
95 **business at issue.**

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

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

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

105 9. Any displaced person, who is also the owner of the premises, may waive relocation
106 payments as part of the negotiations for acquisition of the interest held by such person. Such
107 waiver shall be in writing, shall disclose the person's knowledge of the provisions of this section
108 and his entitlement to payment and shall be filed with the acquiring public agency. **However,**
109 **any such waiver shall not include a waiver of any notice provisions of this section, and a**
110 **displaced person shall remain entitled to all of the provisions regarding programs which**
111 **are contained in subdivisions (2) and (3) of subsection 5 of this section.**

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

115 11. Any urban redevelopment corporation, its assigns or transferees, which have been
116 provided any assistance under the operation of chapter 99, RSMo, chapter 100, RSMo, chapter
117 353, RSMo, or this chapter, with land acquisition by the local governing body, shall be required
118 to make a report to the local governing body or appropriate public agency which shall include,
119 but not be limited to, the addresses of all occupied residential buildings and structures within the
120 redevelopment area and the names and addresses of persons displaced by the redeveloper and
121 specific relocation benefits provided to each person, as well as a sample notice provided to each
122 person.

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

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

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

133 15. The provisions of sections 523.200 and 523.205 shall apply to land acquisitions
134 under the operation of chapter 99, RSMo, chapter 100, RSMo, or chapter 353, RSMo, filed for
135 approval, approved or amended on or after August 31, 1991, **and, as provided by subsection**
136 **2 of this section, any other land acquisition by a political subdivision or governmental**
137 **entity through condemnation proceedings initiated after December 31, 2006.**

523.250. 1. At least sixty days before filing of a condemnation petition seeking to acquire an interest in real property, the condemning authority shall provide the owner of record of such property with a written notice concerning the intended acquisition. Such notice shall include:

(1) Identification of the interest in real property to be acquired and a statement of the legal description or commonly known location of the property;

(2) The purpose or purposes for which the property is to be acquired;

(3) A statement that the property owner has the right to:

(a) Seek legal counsel at the owner's expense;

(b) Make a counteroffer and engage in further negotiations;

(c) Obtain such owner's own appraisal of just compensation;

(d) Have just compensation determined preliminarily by court-appointed condemnation commissioners and, ultimately, by a jury;

(e) Seek assistance from the office of the ombudsman for property rights created under section 523.277;

(f) Contest the right to condemn in the condemnation proceeding; and

(g) Exercise the rights to request vacation of an easement under the procedures and circumstances provided for in section 3 of this act.

An owner may waive the requirements of this subsection prescribed above in a writing executed by the owner.

2. The written notice required by this section 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 notice requirement; provided, however, that nothing in this section shall preclude a condemning authority from proving compliance with this notice requirement by other competent evidence.

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

8 for certified or registered mail shall constitute proof of compliance with this requirement;
9 provided, however, that nothing in this section shall preclude a condemning authority from
10 proving compliance with this requirement by other competent evidence. Nothing in this
11 section shall prohibit the parties from negotiating during the thirty-day period.

12 2. (1) Any condemning authority shall, at the time of the offer, provide the
13 property owner with an appraisal or an explanation with supporting financial data for its
14 determination of the value of the property for purposes of the offer made in subsection 1
15 of this section.

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

523.256. Before a court may enter an order of condemnation, the court shall find
2 that the condemning authority engaged in good faith negotiations prior to filing the
3 condemnation petition. A condemning authority shall be deemed to have engaged in good
4 faith negotiations 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
8 authority, provided an appraisal is given to the owner pursuant to subsection 2 of section
9 523.253 or, in other cases, the offer is no lower than the amount provided in the basis for
10 its determination of the value of the property as provided to the owner under subsection
11 2 of section 523.253;

12 (3) The owner has been given an opportunity to obtain his or her own appraisal
13 from a state-licensed or state-certified appraiser of his or her choice; and

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

16

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

523.259. 1. If any condemning authority abandons a condemnation, each owner
2 of interests sought to be condemned shall be entitled to recover:

3 (1) Their reasonable attorneys' fees, expert expenses and costs; and

4 (2) The lesser of:

5 (a) The owner's actual damages accruing as a direct and proximate result of the
6 pendency of the condemnation if proven by the owner; or

7 (b) The damages required to be paid to an owner in the event of an abandonment
8 under the terms of the applicable redevelopment plan or agreement.

9
10 In the event that the applicable redevelopment plan or agreement is silent as to damages
11 required to be paid to an owner in the event of an abandonment, a court shall order the
12 condemning authority to pay the owner's actual reasonable attorneys' fees and expenses,
13 and shall award damages accruing as a direct and proximate result of the pendency of the
14 condemnation if proven by the landowner.

15 2. The provisions of this section shall only apply to redevelopment plans or
16 agreements entered into after December 31, 2006.

 523.261. Solely with regard to condemnation actions pursuant to the authority
2 granted by section 21, article VI, Constitution of Missouri and laws enacted pursuant
3 thereto, any legislative determination that an area is blighted, substandard, or unsanitary
4 shall not be arbitrary or capricious or induced by fraud, collusion, or bad faith and shall
5 be supported by substantial evidence. A condemning authority or the affected property
6 owner may seek a determination as to whether these standards have been met by a court
7 of competent jurisdiction in any condemnation action filed to acquire the owner's property
8 or in an action seeking a declaratory judgment. Upon the filing of such a declaratory
9 judgment or when such a defense is raised in a condemnation proceeding, the circuit court
10 shall give the case preference in the order of hearing to all other cases, except elections
11 cases, to the extent necessary to conclude the case within thirty days of having been filed.
12 Either party may thereafter file an interlocutory appeal of the circuit court's order
13 upholding or rejecting the legislative body's determination. Any subsequent or
14 interlocutory appeal to a higher court on the appeal of the legislative determination shall
15 be given preference and concluded in an expedited manner similar to the manner set forth
16 herein for a hearing in circuit court. An interlocutory appeal shall not stay proceedings
17 in the court unless the court of appeals so orders.

 523.262. 1. Except as set forth in subsection 2 of this section, the power of eminent
2 domain shall only be vested in governmental bodies or agencies whose governing body is
3 elected or whose governing body is appointed by elected officials or in an urban
4 redevelopment corporation operating pursuant to a redevelopment agreement with the
5 municipality for a particular redevelopment area, which agreement was executed prior to
6 or on December 31, 2006.

7 2. A private utility company, public utility, rural electric cooperative, municipally
8 owned utility, pipeline, railroad or common carrier shall have the power of eminent
9 domain as may be granted pursuant to the provisions of other sections of the revised

10 statutes of Missouri. For the purposes of this section, the term "common carrier" shall not
11 include motor carriers, contract carriers, or express companies. Where a condemnation
12 by such an entity results in a displaced person, as defined in section 523.200, the provisions
13 of subsections 3 and 6 to 10 of section 523.205 shall apply unless the condemning entity is
14 subject to the relocation assistance provisions of the federal Uniform Relocation Assistance
15 Act.

16 **3. Any entity with the power of eminent domain and pursuing the acquisition of**
17 **property for the purpose of constructing a power generation facility after December 31,**
18 **2006, after providing notice in a newspaper of general circulation in the county where the**
19 **facility is to be constructed, shall conduct a public meeting disclosing the purpose of the**
20 **proposed facility prior to making any offer to purchase property in pursuit thereof or,**
21 **alternatively, shall provide the property owner with notification of the identity of the**
22 **condemning authority and the proposed purpose for which the condemned property shall**
23 **be used at the time of making the initial offer.**

523.265. With regard to property interests acquired by condemnation or
2 **negotiations in lieu of the exercise thereof, within thirty days of receiving a written notice**
3 **sent under section 523.250, the landowner may propose to the condemning authority in**
4 **writing an alternative location for the property to be condemned, which alternative**
5 **location shall be on the same parcel of the landowner's property as the property the**
6 **condemning authority seeks to condemn. The proposal shall describe the alternative**
7 **location in such detail that the alternative location is clearly defined for the condemning**
8 **authority. The condemning authority shall consider all such alternative locations. This**
9 **section shall not apply to takings of an entire parcel of land. A written statement by the**
10 **condemning authority to the landowner that it has considered all such alternative**
11 **locations, and briefly stating why they were rejected or accepted, is conclusive evidence**
12 **that sufficient consideration was given to the alternative locations.**

523.271. 1. No condemning authority shall acquire private property through the
2 **process of eminent domain for solely economic development purposes.**

3 **2. For the purposes of this section, "economic development" shall mean a use of a**
4 **specific piece of property or properties which would provide an increase in the tax base,**
5 **tax revenues, employment, and general economic health, and does not include the**
6 **elimination of blighted, substandard, or unsanitary conditions, or conditions rendering the**
7 **property or its surrounding area a conservation area as defined in section 99.805, RSMo.**

523.274. 1. Where eminent domain authority is based upon a determination that
2 **a defined area is blighted, the condemning authority shall individually consider each parcel**
3 **of property in the defined area with regard to whether the property meets the relevant**

4 statutory definition of blight. If the condemning authority finds a preponderance of the
5 defined redevelopment area is blighted, it may proceed with condemnation of any parcels
6 in such area.

7 **2. No action to acquire property by eminent domain within a redevelopment area**
8 **shall be commenced later than five years from the date of the legislative determination, by**
9 **ordinance, or otherwise, that the property is blighted, substandard, contains unsanitary**
10 **conditions, or is eligible for classification within a conservation area as defined in section**
11 **99.805, RSMo. However, such determination may be renewed for successive five-year**
12 **periods by the legislative body.**

523.277. The office of public counsel shall create an office of ombudsman for
2 **property rights by appointing a person to the position of ombudsman. The ombudsman**
3 **shall assist citizens by providing guidance, which shall not constitute legal advice, to**
4 **individuals seeking information regarding the condemnation process and procedures. The**
5 **ombudsman shall document the use of eminent domain within the state and any issues**
6 **associated with its use and shall submit a report to the general assembly on January 1,**
7 **2008, and on such date each year thereafter.**

523.282. 1. Any blanket easement created after December 31, 2006, shall be void
2 **as against public policy and wholly unenforceable. For the purposes of this section, the**
3 **term "blanket easement" shall mean an easement in real property acquired by**
4 **condemnation or negotiations in lieu of the exercise thereof where the instrument or order**
5 **of condemnation, by its terms, allows the easement holder to locate its facilities at an**
6 **undefined location on, over, under, or across the burdened property.**

7 **2. Notwithstanding the provisions of subsection 1 of this section to the contrary, the**
8 **term "blanket easement" shall not apply to any instrument containing language that upon**
9 **completion of the initial structure explicitly fixes the burden, scope of use, and footprint**
10 **within the express terms of the instrument and also contains an express statement that the**
11 **location of the burden shall be fixed to the degree occupied by the initial structure upon**
12 **completion of such structure. Nothing in this section shall prohibit the expansion or**
13 **upgrade of the initially completed structure provided that the purpose or purposes and**
14 **footprint of said expansion or upgrade were explicitly described in the original terms of**
15 **the instrument.**

523.283. 1. Easements or right-of-way interests acquired after August 28, 2006, by
2 **a private utility company, public utility, rural electric cooperative, municipally owned**
3 **utility, pipeline, or railroad, by either formal condemnation proceedings or by negotiations**
4 **in lieu of condemnation proceedings, are fixed and determined by the particular use for**
5 **which the property was acquired as described in either the instrument of conveyance or**

6 in the condemnation petition. Expanded use of the property beyond that which is
7 described in the instrument of conveyance or the condemnation petition shall require
8 either an additional condemnation proceeding in order to acquire the additional rights or
9 by new negotiations for the expanded use of the property and appropriate consideration
10 and damages to the current owner of the property for the expanded use.

11 2. For purposes of this section, the term "expanded use" shall mean:

12 (1) The exclusion of use by the current owner of the burdened property from an
13 area greater than the area originally described at the time of acquisition by the
14 condemning authority; or

15 (2) An increased footprint or burden greater than the footprint or burden
16 originally described in the instrument of conveyance or condemnation petition. As used
17 in this subdivision, the term "increased footprint or burden" shall mean a different type
18 of use or a use presenting an unreasonably burdensome impact on the property, the
19 landowner, or the activities being conducted on the property by the landowner.

20 3. Commissioners appointed by the court under section 523.040 and, where
21 applicable, a jury on a trial of exceptions from the commissioners' award, shall be entitled
22 to assume, in assessing the just compensation due for a taking, that the condemning
23 authority shall exercise, from and after the date the property interest is acquired, each and
24 every right acquired to the fullest extent allowed by the condemnation petition.

25 4. If a property owner prevails in an action for trespass or expanded use against
26 a private utility company, public utility, rural electric cooperative, municipally owned
27 utility, pipeline, or railroad, such property owner may be awarded reasonable attorneys'
28 fees, costs, and expenses.

Section 1. 1. No condemning authority shall declare farmland blighted for the
2 purposes of exercising eminent domain.

3 2. For the purposes of this section only, the term "farmland" shall mean all real
4 property classified as forest cropland or all real property used for agricultural purposes
5 and devoted primarily to the raising and harvesting of crops; to the feeding, breeding, and
6 management of livestock which shall include breeding and boarding of horses; to dairy
7 operations, or to any combination thereof; and buildings and structures customarily
8 associated with farming, agricultural, and horticultural uses. "Farmland" shall also
9 include land devoted to and qualifying for payments or other compensation under a soil
10 conservation or agricultural assistance program under an agreement with an agency of the
11 federal government.

Section 2. In addition to the modifications to a taxpayer's federal adjusted gross
2 income in section 143.121, RSMo, to calculate Missouri adjusted gross income there shall

3 be subtracted from the taxpayer's federal adjusted gross income any gain recognized
4 pursuant to section 1033 of the Internal Revenue Code of 1986, as amended, arising from
5 compulsory or involuntary conversion of property as a result of condemnation or the
6 imminence thereof.

Section 3. A property owner of land burdened by an easement created after
2 December 31, 2006, abandoned in whole for a period in excess of ten years, may petition
3 a court of competent jurisdiction to obtain the rights previously transferred and vacation
4 of the easement for monetary consideration equal to the original consideration obtained
5 by the property owner in exchange for the easement. The holder of the easement shall be
6 a party to such action. The holder of any such easement shall be allowed to maintain the
7 easement upon a showing that the holder, in good faith, plans to make future use of the
8 easement. The right to request that an easement be vacated may be waived by the property
9 owner of record from whom the easement was originally acquired or by such property
10 owner's successor in title to the burdened property either in the original instrument of
11 conveyance or in a subsequent signed writing.

Section B. Pursuant to section 1.140, RSMo, the provisions of this act are severable. If
2 any provision of this act is declared invalid or unconstitutional, it is the intent of the legislature
3 at the remaining portions of this act shall remain and be in full force and effect.

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