

FIRST REGULAR SESSION

HOUSE BILL NO. 399

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BERKSTRESSER.

Read 1st time January 17, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

0095L.011

AN ACT

To amend chapter 523, RSMo, by adding thereto one new section relating to reimbursement of expenses in condemnation and inverse condemnation proceedings.

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

Section A. Chapter 523, RSMo, is amended by adding thereto one new section, to be
2 known as section 523.075, to read as follows:

**523.075. 1. Any person, agency or other entity acquiring real property for public
2 use pursuant to the laws of this state shall, as soon as practicable after the date of payment
3 of the purchase price or the date of deposit into court of funds to satisfy the award of
4 compensation in a condemnation proceeding to acquire real property, whichever is earlier,
5 reimburse the owner for expenses he or she necessarily incurred for:**

6 **(1) Recording fees, transfer taxes and similar expenses incidental to conveying the
7 real property;**

8 **(2) Penalty costs for prepayment for any preexisting recorded mortgage entered
9 into in good faith encumbering the real property; and**

10 **(3) The pro rata portion of real property taxes paid which are allocable to a period
11 subsequent to the date of vesting title in the acquiring entity, or the effective date of
12 possession of the real property by the acquiring entity, whichever is earlier.**

13 **2. Where a condemnation proceeding is instituted by any person, agency or other
14 entity to acquire real property for public use pursuant to the laws of this state and:**

15 **(1) The final judgment is that the real property cannot be acquired by
16 condemnation;**

17 **(2) The proceeding is abandoned; or**

18 **(3) The award of the jury exceeds the award of the court-appointed commissioners**

19 by at least ten percent;

20

21 the owner of any right, title or interest in the real property may be paid a sum as in the
22 opinion of the court will reimburse the owner for his or her reasonable attorney, appraisal
23 and engineering fees, actually incurred because of the condemnation proceedings. Such
24 a determination by the court shall be appealable to the supreme court in the same manner
25 as any other final order. The final award of the sums shall be paid by the person, agency
26 or other entity which sought to condemn the property.

27 3. Where an inverse condemnation proceeding is instituted by the owner of any
28 right, title or interest in real property because of use of his or her property in any public
29 program or project, the court, rendering a judgment for the plaintiff in any such
30 proceeding and awarding compensation for the taking of property, or the attorney general
31 or other party settling any such proceeding, shall award to the plaintiff, as a part of the
32 judgment or settlement, a sum which, in the opinion of the court or the acquiring entity's
33 attorney, respectively, will reimburse the plaintiff for his or her reasonable costs,
34 disbursements and expenses, including reasonable attorney, appraisal and engineering
35 fees, actually incurred because of the proceeding. A determination by the court shall be
36 appealable to the supreme court in the same manner as any other final order.

37 4. The costs and expenses provided for in this section shall supplement the costs
38 and expenses collected pursuant to section 523.070 or any other provision of law. This
39 section shall not provide for the duplicative collection of such costs and expenses. In the
40 event that any and all costs and expenses which could be collected pursuant to this section
41 are collected pursuant to section 523.070, any other provision of law, or any other
42 agreement or settlement arranged by the parties, this section shall not apply, but if any cost
43 which may be collected pursuant to this section is not collected by other means, then this
44 section shall apply.