

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1944

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:

1 Section A. Sections 99.120, 99.460, 100.420, 238.247,
2 353.130, 523.040, 523.055, 523.060, 523.200, and 523.205, RSMo,
3 are repealed and twenty-eight new sections enacted in lieu
4 thereof, to be known as sections 99.120, 99.460, 100.420,
5 238.247, 353.130, 523.001, 523.039, 523.040, 523.055, 523.060,
6 523.061, 523.200, 523.205, 523.250, 523.253, 523.256, 523.259,
7 523.261, 523.262, 523.265, 523.271, 523.274, 523.277, 523.282,
8 523.283, 1, 2, and 3, to read as follows:

9 99.120. An authority whose board members are appointed by
10 one or more elected officials shall have the right to acquire by
11 the exercise of the power of eminent domain any real property in
12 fee simple or other estate which it may deem necessary for its
13 purposes under sections 99.010 to 99.230 after the adoption by it

1 of a resolution declaring that the acquisition of the real
2 property described therein is necessary for such purposes. An
3 authority may exercise the power of eminent domain in the manner
4 provided for corporations in chapter 523, RSMo[; or it may
5 exercise the power of eminent domain in the manner provided by
6 any other applicable statutory provision for the exercise of the
7 power of eminent domain]. Property already devoted to a public
8 use may be acquired in like manner, provided that no real
9 property belonging to the city, the county, the state or any
10 political subdivision thereof may be acquired without its
11 consent.

12 99.460. 1. An authority whose board members are appointed
13 by one or more elected officials shall have the right to acquire
14 by the exercise of the power of eminent domain any real property
15 which it may deem necessary for a land clearance project or for
16 its purposes under this law after the adoption by it of a
17 resolution declaring that the acquisition of the real property
18 described therein is necessary for such purposes. An authority
19 may exercise the power of eminent domain in the manner and under
20 the procedure provided for corporations in [sections 523.010 to
21 523.070, inclusive, and 523.090 and 523.100] chapter 523, RSMo,
22 and acts amendatory thereof or supplementary thereto[; or it may
23 exercise the power of eminent domain in the manner now or which
24 may be hereafter provided by any other statutory provision
25 available to the community, and, as to an authority in a
26 constitutional charter city in the manner provided in the charter
27 of said city for the exercise of the power of eminent domain].

28 2. Property already devoted to a public use may be acquired

1 in like manner, provided that no real property belonging to the
2 municipality, the county or the state may be acquired without its
3 consent.

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

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

24 238.247. 1. The district may condemn lands for a project
25 in the name of the state of Missouri, upon prior approval by the
26 commission, or the local transportation authority and by
27 ordinance of the local governing body as appropriate, as to the
28 necessity for the taking of the description of the parcel and the

1 interest taken in that parcel.

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

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

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

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

25 353.130. 1. An urban redevelopment corporation may acquire
26 real property or secure options in its own name or, in the name
27 of nominees, it may acquire real property by gift, grant, lease,
28 purchase, or otherwise.

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

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

22 523.001. For the purposes of this chapter, the following
23 terms shall mean:

24 (1) "Fair market value", the value of the property taken
25 after considering comparable sales in the area, capitalization of
26 income, and replacement cost less depreciation, singularly or in
27 combination, as appropriate, and additionally considering the
28 value of the property based upon its highest and best use, using

1 generally accepted appraisal practices. If less than the entire
2 property is taken, fair market value shall mean the difference
3 between the fair market value of the entire property immediately
4 prior to the taking and the fair market value of the remaining or
5 burdened property immediately after the taking;

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

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

17 523.039. In all condemnation proceedings filed after
18 December 31, 2006, just compensation for condemned property shall
19 be determined under one of the three following subdivisions,
20 whichever yields the highest compensation, as applicable to the
21 particular type of property and taking:

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

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

27 (3) For condemnations of property that result in any taking
28 that prevents the owner from utilizing property in substantially

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

16 523.040. 1. The court, or judge thereof in vacation, on
17 being satisfied that due notice of the pendency of the petition
18 has been given, shall appoint three disinterested commissioners,
19 who shall be residents of the county in which the real estate or
20 a part thereof is situated, to assess the damages which the
21 owners may severally sustain by reason of such appropriation,
22 who, within forty-five days after appointment by the court, which
23 forty-five days may be extended by the court to a date certain
24 with good cause shown, after applying the definition of fair
25 market value contained in subdivision (1) of section 523.001, and
26 after having viewed the property, shall return to the clerk of
27 such court, under oath, their report in duplicate, of such
28 assessment of damages, setting forth the amount of damages

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

28 2. Prior to the issuance of any report under subsection 1

1 of this section, a commissioner shall notify all parties named in
2 the condemnation petition no less than five days prior to the
3 commissioners' viewing of the property of the named parties'
4 opportunity to accompany the commissioners on the commissioners'
5 viewing of the property and of the named parties' opportunity to
6 present information to the commissioners.

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

10 523.055. In any action to condemn lands under the power of
11 eminent domain, where the condemnor has paid into the office of
12 the clerk of the circuit court the amount of damages assessed by
13 commissioners pursuant to law, the circuit clerk shall give the
14 owners or those in possession written notice of such fact within
15 five days. If the owners or those in possession do not deliver
16 possession of the property condemned within ten days after the
17 receipt of notice of the payment of the award, then on the
18 request of the condemnor the court shall issue a writ of
19 possession directing the sheriff to deliver the possession of
20 such property to the condemnor forthwith; except that the court
21 may upon the motion of [said] the occupants or owners grant them
22 such extension of time, not to exceed ninety days, as the court
23 finds to be reasonable under all the circumstances. However, any
24 displaced owner of a principal place of residence shall have one
25 hundred days from the date of the award. The writ of possession
26 shall be executed in the manner provided by law for the execution
27 of writs of possession in ejectment suits for the recovery of
28 land. If a writ of possession is issued or a motion filed asking

1 for an extension [by said owners], then all costs accrued in
2 executing the writ and in the hearing of the motion may be
3 assessed against the said owners.

4 523.060. 1. Any plaintiff or defendant, individual or
5 corporate, shall have the right of trial by jury of twelve
6 persons, if either party file exceptions to the award of
7 commissioners in any condemnation case.

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

10 523.061. After the filing of the commissioners' report
11 pursuant to section 523.040, the circuit judge presiding over the
12 condemnation proceeding shall apply the provisions of section
13 523.039 and shall determine whether a homestead taking has
14 occurred and shall determine whether heritage value is payable
15 and shall increase the commissioners' award to provide for the
16 additional compensation due where a homestead taking occurs or
17 where heritage value applies, in accordance with the just
18 compensation provisions of section 523.039. If a jury trial of
19 exceptions occurs under section 523.060, the circuit judge
20 presiding over the condemnation proceeding shall apply the
21 provisions of section 523.039 and shall determine whether a
22 homestead taking has occurred and shall determine whether
23 heritage value is payable and shall increase the jury verdict to
24 provide for the additional compensation due where a homestead
25 taking occurs or where heritage value applies, in accordance with
26 the just compensation provisions of section 523.039.

27 523.200. As used in sections 523.200 to 523.215, the
28 following words mean:

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

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

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

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

23 2. [The governing body of any city, or agency thereof,
24 prior to approval of a plan, project or area for redevelopment
25 under the operation of chapter 99, RSMo, chapter 100, RSMo, or
26 chapter 353, RSMo,] Any political subdivision, governmental
27 entity, or corporation created under chapter 353, RSMo,
28 initiating condemnation proceedings which [proposes or includes

1 within its provisions or necessitates] may necessitate
2 displacement of persons, when such displacement is not subject to
3 the provisions of the Federal Uniform Relocation and Real
4 Property Acquisition Policies Act of 1970 (42 U.S.C. sections
5 4601 to 4655, as amended) or subsection 1 of this section, shall
6 establish by ordinance or rule a relocation policy which shall
7 include, but not be limited to, the provisions and requirements
8 of subsections 2 to 15 of this section, or in lieu thereof, such
9 relocation policy shall contain provisions and requirements which
10 are equivalent to the requirements of the Federal Uniform
11 Relocation Assistance and Real Property Acquisition Policies Act
12 of 1970 (42 U.S.C. sections 4601 to 4655, as amended).

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

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

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

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

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

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

23 (b) Contain a safe electrical wiring system;

24 (c) Contain an adequate heating system;

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

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

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

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

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

14 4. Every urban redevelopment corporation acquiring property
15 within a redevelopment area shall submit a relocation plan as
16 part of the redevelopment plan.

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

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

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

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

7 (a) A general information notice that shall be issued at
8 the approval and selection of a designated redeveloper and shall
9 inform residential and nonresidential owners and occupants of a
10 potential project, including the potential acquisition of the
11 property;

12 (b) A notice of relocation eligibility that shall be issued
13 as soon as feasible after the execution of the redevelopment
14 agreement and shall inform residential and nonresidential
15 occupants within the project area who will be displaced of their
16 relocation assistance and nature of that assistance, including
17 ninety days advance notice of the date the occupants must vacate;

18 (4) A program for referrals of displaced persons with
19 provisions for a minimum of three decent, safe and sanitary
20 housing referrals for residential persons or suitable referral
21 sites for displaced businesses, a minimum of ninety days' notice
22 of referral sites for [handicapped displaced persons and sixty
23 days' notice of referral sites for] all [other] displaced persons
24 prior to the date such displaced persons are required to vacate
25 the premises, and arrangements for transportation to inspect
26 referral sites; and

27 [(4)] (5) Every displaced person shall be given a
28 ninety-day notice to vacate, prior to the date such displaced

1 person is required to vacate the premises.

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

5 (1) A [~~five-hundred-dollar~~] one thousand dollar fixed
6 moving expense payment; or

7 (2) Actual reasonable costs of relocation including, but
8 not limited to, actual moving costs, utility deposits, key
9 deposits, storage of personal property up to one month, utility
10 transfer and connection fees and other initial rehousing deposits
11 including first and last month's rent and security deposit. Such
12 costs of relocation shall not include the cost of a replacement
13 property or any capital improvements thereto.

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

17 (1) A [~~one-thousand-five-hundred-dollar~~] three thousand
18 dollar fixed moving expense payment and up to an additional ten
19 thousand dollars for reestablishment expenses. Reestablishment
20 expenses are limited to costs incurred for physical improvements
21 to the replacement property to accommodate the particular
22 business at issue; or

23 (2) Actual costs of moving including costs for packing,
24 crating, disconnection, dismantling, reassembling and installing
25 all personal equipment and costs for relettering similar signs
26 and similar replacement stationery, and up to an additional ten
27 thousand dollars for reestablishment expenses. Reestablishment
28 expenses are limited to actual costs incurred for physical

1 improvements to the replacement property to accommodate the
2 particular business at issue.

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

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

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

16 9. Any displaced person, who is also the owner of the
17 premises, may waive relocation payments as part of the
18 negotiations for acquisition of the interest held by such person.
19 Such waiver shall be in writing, shall disclose the person's
20 knowledge of the provisions of this section and his entitlement
21 to payment and shall be filed with the acquiring public agency.
22 However, any such waiver shall not include a waiver of any notice
23 provisions of this section, and a displaced person shall remain
24 entitled to all of the provisions regarding programs which are
25 contained in subdivisions (2) and (3) of subsection 5 of this
26 section.

27 10. All persons eligible for relocation benefits shall be
28 notified in writing of the availability of such relocation

1 payments and assistance, with such notice to be given
2 concurrently with the notice of referral sites as required in
3 subdivision (3) of subsection 5 of this section.

4 11. Any urban redevelopment corporation, its assigns or
5 transferees, which have been provided any assistance under the
6 operation of chapter 99, RSMo, chapter 100, RSMo, chapter 353,
7 RSMo, or this chapter, with land acquisition by the local
8 governing body, shall be required to make a report to the local
9 governing body or appropriate public agency which shall include,
10 but not be limited to, the addresses of all occupied residential
11 buildings and structures within the redevelopment area and the
12 names and addresses of persons displaced by the redeveloper and
13 specific relocation benefits provided to each person, as well as
14 a sample notice provided to each person.

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

19 13. The requirements set out in this section shall be
20 considered minimum standards. In reviewing any proposed
21 relocation plan under the operation of chapter 99, RSMo, chapter
22 100, RSMo, or chapter 353, RSMo, the local governing body or
23 public agency shall determine the adequacy of the proposal and
24 may require additional elements to be provided.

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

1 15. The provisions of sections 523.200 and 523.205 shall
2 apply to land acquisitions under the operation of chapter 99,
3 RSMo, chapter 100, RSMo, or chapter 353, RSMo, filed for
4 approval, approved or amended on or after August 31, 1991, and,
5 as provided by subsection 2 of this section, any other land
6 acquisition by a political subdivision or governmental entity
7 through condemnation proceedings initiated after December 31,
8 2006.

9 523.250. 1. At least sixty days before filing of a
10 condemnation petition seeking to acquire an interest in real
11 property, the condemning authority shall provide the owner of
12 record of such property with a written notice concerning the
13 intended acquisition. Such notice shall include:

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

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

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

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

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

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

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

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

28 (f) Contest the right to condemn in the condemnation

1 proceeding; and

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

5
6 An owner may waive the requirements of this subsection prescribed
7 above in a writing executed by the owner.

8 2. The written notice required by this section shall be
9 deposited in the United States mail, certified or registered, and
10 with postage prepaid, addressed to the owner of record as listed
11 in the office of the city or county assessor for the city or
12 county in which the property is located. The receipt issued to
13 the condemning authority by the United States Post Office for
14 certified or registered mail shall constitute proof of compliance
15 with this notice requirement; provided, however, that nothing in
16 this section shall preclude a condemning authority from proving
17 compliance with this notice requirement by other competent
18 evidence.

19 523.253. 1. A condemning authority shall present a written
20 offer to all owners of record of the property. The offer must be
21 made at least thirty days before filing a condemnation petition
22 and shall be held open for the thirty-day period unless an
23 agreement is reached sooner. The offer shall be deposited in the
24 United States mail, certified or registered, and with postage
25 prepaid, addressed to the owner of record as listed in the office
26 of the city or county assessor for the city or county in which
27 the property is located. The receipt issued to the condemning
28 authority by the United States Post Office for certified or

1 registered mail shall constitute proof of compliance with this
2 requirement; provided, however, that nothing in this section
3 shall preclude a condemning authority from proving compliance
4 with this requirement by other competent evidence. Nothing in
5 this section shall prohibit the parties from negotiating during
6 the thirty-day period.

7 2. (1) Any condemning authority shall provide the property
8 owner with an appraisal or an explanation with supporting
9 financial data for its determination of the value of the
10 property.

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

14 523.256. Before a court may enter an order of condemnation,
15 the court shall find that the condemning authority engaged in
16 good faith negotiations prior to filing the condemnation
17 petition. A condemning authority shall be deemed to have engaged
18 in good faith negotiations if:

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

21 (2) Its offer under section 523.253 was no lower than the
22 amount reflected in an appraisal performed by a state-licensed or
23 state-certified appraiser for the condemning authority, provided
24 an appraisal is given to the owner pursuant to subsection 2 of
25 section 523.253 or, in other cases, the offer is no lower than
26 the amount provided in the basis for its determination of the
27 value of the property as provided to the owner under subsection 2
28 of section 523.253;

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

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

6
7 If the court does not find that good faith negotiations have
8 occurred, the court shall dismiss the condemnation petition,
9 without prejudice, and shall order the condemning authority to
10 reimburse the owner for his or her actual reasonable attorneys'
11 fees and costs incurred with respect to the condemnation
12 proceeding which has been dismissed.

13 523.259. 1. If any condemning authority abandons a
14 condemnation, each owner of interests sought to be condemned
15 shall be entitled to recover:

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

18 (2) The lesser of:

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

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

25
26 In the event that the applicable redevelopment plan or agreement
27 is silent as to damages required to be paid to an owner in the
28 event of an abandonment, a court shall order the condemning

1 authority to pay the owner's actual reasonable attorneys' fees
2 and expenses, and shall award damages accruing as a direct and
3 proximate result of the pendency of the condemnation if proven by
4 the landowner.

5 2. The provisions of this section shall only apply to
6 redevelopment plans or agreements entered into after December 31,
7 2006.

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

1 to the manner set forth herein for a hearing in circuit court.
2 An interlocutory appeal shall not stay proceedings in the court
3 unless the court of appeals so orders.

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

12 2. A private utility company, public utility, rural
13 electric cooperative, municipally owned utility, pipeline,
14 railroad or common carrier shall have the power of eminent domain
15 as may be granted pursuant to the provisions of other sections of
16 the revised statutes of Missouri. For the purposes of this
17 section, the term "common carrier" shall not include motor
18 carriers, contract carriers, or express companies. Where a
19 condemnation by such an entity results in a displaced person, as
20 defined in section 523.200, the provisions of subsections 3 to 10
21 of section 523.205 shall apply unless the condemning entity is
22 subject to the relocation assistance provisions of the federal
23 Uniform Relocation Assistance Act, except the notice required
24 under paragraph (b) of subdivision (3) of subsection 5 of section
25 523.205 shall be provided on the same date as required under
26 section 523.250.

27 3. Any entity with the power of eminent domain and pursuing
28 the acquisition of property for the purpose of constructing a

1 power generation facility after December 31, 2006, after
2 providing notice in a newspaper of general circulation in the
3 county where the facility is to be constructed, shall conduct a
4 public meeting disclosing the purpose of the proposed facility
5 prior to making any offer to purchase property in pursuit thereof
6 or, alternatively, shall provide the property owner with
7 notification of the identity of the condemning authority and the
8 proposed purpose for which the condemned property shall be used
9 at the time of making the initial offer.

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

27 523.271. The state of Missouri hereby rejects the findings
28 of the United States Supreme Court in Kelo v. New London, 125

1 S.Ct. 2655 (2005), and the laws of this state shall be
2 interpreted to prohibit the use of eminent domain for private
3 economic purposes.

4 523.274. 1. Where eminent domain authority is based upon a
5 determination that a defined area is blighted, the condemning
6 authority shall individually consider each parcel of property in
7 the defined area with regard to whether the property meets the
8 relevant statutory definition of blight. If the condemning
9 authority finds a preponderance of the defined redevelopment area
10 is blighted, it may proceed with condemnation of any parcels in
11 such area.

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

20 523.277. The office of public counsel shall create an
21 office of ombudsman for property rights by appointing a person to
22 the position of ombudsman. The ombudsman shall assist citizens
23 by providing guidance, which shall not constitute legal advice,
24 to individuals seeking information regarding the condemnation
25 process and procedures. The ombudsman shall document the use of
26 eminent domain within the state and any issues associated with
27 its use and shall submit a report to the general assembly on
28 January 1, 2008, and on such date each year thereafter.

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

10 2. Notwithstanding the provisions of subsection 1 of this
11 section to the contrary, the term "blanket easement" shall not
12 apply to any instrument containing language that explicitly fixes
13 the burden, scope of use, and footprint within the express terms
14 of the instrument and also contains an express statement that the
15 location of the burden shall be fixed to the degree occupied by
16 the initial structure upon completion of such structure.

17 523.283. 1. Easements or right-of-way interests acquired
18 after August 28, 2006, by a private utility company, public
19 utility, rural electric cooperative, municipally owned utility,
20 pipeline, or railroad, by either formal condemnation proceedings
21 or by negotiations in lieu of condemnation proceedings, are fixed
22 and determined by the particular use for which the property was
23 acquired as described in either the instrument of conveyance or
24 in the condemnation petition. Expanded use of the property
25 beyond that which is described in the instrument of conveyance or
26 the condemnation petition shall require either an additional
27 condemnation proceeding in order to acquire the additional rights
28 or by new negotiations for the expanded use of the property and

1 appropriate consideration and damages to the current owner of the
2 property for the expanded use.

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

5 (1) The exclusion of use by the current owner of the
6 burdened property from an area greater than the area originally
7 described at the time of acquisition by the condemning authority;
8 or

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

16 3. Commissioners appointed by the court under section
17 523.040 and, where applicable, a jury on a trial of exceptions
18 from the commissioners' award, shall be entitled to assume, in
19 assessing the just compensation due for a taking, that the
20 condemning authority shall exercise, from and after the date the
21 property interest is acquired, each and every right acquired to
22 the fullest extent allowed by the condemnation petition.

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

28 Section 1. 1. No condemning authority shall declare

1 farmland blighted for the purposes of exercising eminent domain.

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

14 Section 2. In addition to the modifications to a taxpayer's
15 federal adjusted gross income in section 143.121, RSMo, to
16 calculate Missouri adjusted gross income there shall be
17 subtracted from the taxpayer's federal adjusted gross income any
18 gain recognized pursuant to section 1033 of the Internal Revenue
19 Code of 1986, as amended, arising from compulsory or involuntary
20 conversion of property as a result of condemnation or the
21 imminence thereof.

22 Section 3. A property owner of land burdened by an easement
23 created after December 31, 2006, abandoned in whole for a period
24 in excess of ten years, may petition a court of competent
25 jurisdiction to obtain the rights previously transferred and
26 vacation of the easement for monetary consideration equal to the
27 original consideration obtained by the property owner in exchange
28 for the easement. The holder of the easement shall be a party to

1 such action. The holder of any such easement shall be allowed to
2 maintain the easement upon a showing that the holder, in good
3 faith, plans to make future use of the easement. The right to
4 request that an easement be vacated may be waived by the property
5 owner of record from whom the easement was originally acquired or
6 by such property owner's successor in title to the burdened
7 property either in the original instrument of conveyance or in a
8 subsequent signed writing.

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

14