

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 447
92ND GENERAL ASSEMBLY

Reported from the Committee on Conservation and Natural Resources April 17, 2003, with recommendation that the House Committee Substitute for House Bill No. 447 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

1653L.06C

AN ACT

To repeal section 262.810, RSMo, and to enact in lieu thereof one new section relating to limiting the taking of farmland by eminent domain.

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

Section A. Section 262.810, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 262.810, to read as follows:

262.810. 1. Property subject to the farmland protection act **or any easement on property subject to the farmland protection act** shall not be taken by eminent domain in whole or in part by **the state**, any political subdivision of this state, **or by any other entity with the power of eminent domain** except after a public hearing. **Such hearing shall be held in the county seat of the county with the largest land area affected by a proposed acquisition or right-of-way expansion and at least sixty days prior to the initiation of any condemnation proceedings held pursuant to chapter 523, RSMo. The state, political subdivision of the state, or other entity with the power of eminent domain shall notify owners of property subject to any proposed acquisition or right-of-way expansion and owners of property adjacent to such property subject to any proposed acquisition or right-of-way expansion and the governing body of each county containing any portion of the affected property by registered mail at least two weeks before such hearing is scheduled and shall publish a notice of the hearing once a week for two consecutive weeks in any newspapers qualified pursuant to section 493.050, RSMo, to publish legal notices in each county containing any portion of the affected property. The second such notice shall be published at least ten days before the hearing is scheduled. Any such public hearing conducted by the state or a political subdivision of this state shall be held pursuant to the requirements of this section**

18 and chapter 610, RSMo.

19 **2. Any acquisition of property subject to the farmland protection act or of an**
20 **easement on property subject to the farmland protection act by eminent domain by the**
21 **state, any political subdivision of this state, or any other entity with the power of eminent**
22 **domain shall be restricted as follows:**

23 **(1) For any right-of-way expansion acquired by eminent domain, the state, any**
24 **political subdivision of this state, or any entity with the power of eminent domain shall**
25 **declare a specific intended use for such expansion and consider reasonable alternative**
26 **routes and least intrusive routes, and shall disclose to the public and the affected**
27 **landowners such specific intended use, such alternative routes for which a right-of-way or**
28 **right-of-way expansion is proposed, and the legal rights of landowners in any**
29 **condemnation proceedings initiated pursuant to chapter 523, RSMo. If reasonable**
30 **alternatives to the taking of property subject to the farmland protection act or easements**
31 **on such property are available, the property or easements shall not be acquired by eminent**
32 **domain;**

33 **(2) For any other acquisition obtained by eminent domain, the state, any political**
34 **subdivision of this state, or any other entity with the power of eminent domain shall declare**
35 **a specific intended use for such site and consider reasonable alternative sites, and shall**
36 **disclose to the public and the affected landowners such specific intended use, the location**
37 **of all such alternative sites for which an acquisition is proposed, and the legal rights of**
38 **landowners in any condemnation proceeding initiated pursuant to chapter 523, RSMo. If**
39 **reasonable alternatives to the taking of property subject to the farmland protection act or**
40 **easements on such property are available, the property or easements shall not be acquired**
41 **by eminent domain;**

42 **(3) The notice of the public hearing held pursuant to subsection 1 of this section**
43 **and the specific intended use and the location of alternative routes or sites required to be**
44 **disclosed pursuant to subdivisions (1) and (2) of this subsection shall be entered into the**
45 **court record of any condemnation proceedings initiated pursuant to chapter 523, RSMo;**

46 **(4) Property subject to the farmland protection act or easements on property**
47 **subject to the farmland protection act acquired by eminent domain by the state, any**
48 **political subdivision of this state, or any other entity with the power of eminent domain**
49 **shall not be resold or transferred to a private entity not directly affiliated with the state,**
50 **the political subdivision, or the entity with the power of eminent domain. If the state, any**
51 **political subdivision of this state, or any other entity with the power of eminent domain**
52 **that acquired such property or easement determines that it is no longer in the best interest**
53 **of the state, political subdivision, or entity to retain ownership of such property or**

54 easement for the specific intended use declared pursuant to this subsection:

55 (a) The property shall be deeded back to the original landowner from whom such
56 property was taken or to the successors or assignees of such landowner upon repayment
57 by such landowner, successors, or assignees to the state, any political subdivision of the
58 state, or any other entity with the power of eminent domain in an amount equal to the
59 purchase price of such property, adjusted for inflation, paid by the state, political
60 subdivision of the state, or any other entity with the power of eminent domain. If no
61 verifiable documentation of such purchase price can be produced by either party, the
62 original landowner or the successors or assignees of such landowner shall be given first
63 option to purchase the property at fair market value. In establishing the fair market value
64 of such property, consideration shall be given to the present or currently anticipated use
65 of the property, the present or currently anticipated use of surrounding properties, and the
66 income value derived from the use of the property; or

67 (b) For easements, any deed restriction which resulted from the granting of such
68 easement shall be removed by quitclaim deed.

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70 When such property reverts to the original owners, or their successors or assignees or any
71 such deed restriction is removed by quitclaim deed, the previous owner who acquired the
72 property through eminent domain or the entity that had obtained the easement through
73 eminent domain shall be financially responsible and liable in an amount and form
74 sufficient for taking corrective action and compensating the original owners, or their
75 successors or assignees, for any bodily injury or property or environmental damage caused
76 by or arising from such entity's ownership of the property or use of the easement. Any
77 cause of action accruing pursuant to this subdivision shall be brought within ten years of
78 the reversion of ownership or the removal of the deed restriction;

79 (5) Any landowner whose property subject to the farmland protection act or whose
80 easement on property subject to the farmland protection act has been taken by eminent
81 domain shall have five years from the time of the original taking of such property or
82 easement in which to negotiate claims for damages from construction and maintenance that
83 may not have been confirmed at the time of the original taking; and

84 (6) The landowners subject to property acquisition or any easement shall be
85 provided, at the time of the taking entity's first contact that an acquisition of property or
86 easement is being initiated, any and all legal rights of landowners including all statutory
87 guidelines, rights of mediation, arbitration, and pertinent court cases applicable to the
88 affected landowner's position relative to private property rights.