

SECOND REGULAR SESSION

HOUSE BILL NO. 1377

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CAUTHORN (Sponsor), REIBOLDT, GUERNSEY, TORPEY,
WHITE AND SOLON (Co-sponsors).

4637L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 523.039, RSMo, and to enact in lieu thereof two new sections relating to condemnation proceedings.

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

Section A. Section 523.039, RSMo, is repealed and two new sections enacted in lieu
2 thereof, to be known as sections 523.039 and 523.263, to read as follows:

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 following
3 subdivisions, whichever yields the highest compensation, as applicable to the particular type of
4 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 the fair
7 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 from
9 utilizing property in substantially the same manner as it was currently being utilized on the day
10 of the taking and involving property owned within the same family for [fifty] **thirty-five** or more
11 years, an amount equivalent to the sum of the fair market value and heritage value. For the
12 purposes of this subdivision, family ownership of property may be established through evidence
13 of ownership by children, grandchildren, siblings, or nephews or nieces of the family member
14 owning the property [fifty] **thirty-five** years prior to the taking; and in addition, may be
15 established through marriage or adoption by such family members. If any entity owns the real
16 property, members of the family shall have an ownership interest in more than fifty percent of

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.

17 the entity in order to be within the family line of ownership for the purposes of this subdivision.
18 The property owner shall have the burden of proving to the commissioners or jury that the
19 property has been owned within the same family for [fifty] **thirty-five** or more years.

**523.263. 1. Notwithstanding any other provision of law, any municipality seeking
2 to acquire property through the power of eminent domain shall have the burden of
3 establishing by clear and convincing evidence that:**

4 **(1) There exists a specific need for the acquisition of a particular property by the
5 power of eminent domain; and**

6 **(2) No other reasonable alternatives for the specific need are viable.**

7 **2. Nothing in this section shall be construed as applying to the state of Missouri
8 when the state is exercising its power of eminent domain.**

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