

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1944

93RD GENERAL ASSEMBLY

Reported from the Committee on Judiciary April 3, 2006 with recommendation that House Committee Substitute for House Bill No. 1944 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

Reported from the Committee on Rules April 6, 2006 with recommendation that House Committee Substitute for House Bill No. 1944 Do Pass with a time limit of 5 hour debate on Perfection.

Taken up for Perfection April 12, 2006. House Committee Substitute for House Bill No. 1944 ordered Perfected and printed, as amended.

STEPHEN S. DAVIS, Chief Clerk

4100L.06P

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-six 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2 523.060, 523.200, and 523.205, RSMo, are repealed and twenty-six new sections enacted in lieu
3 thereof, to be known as sections 99.120, 99.460, 100.420, 238.247, 353.130, 523.040, 523.055,
4 523.060, 523.200, 523.205, 523.250, 523.253, 523.256, 523.259, 523.261, 523.262, 523.265,
5 523.271, 523.274, 523.277, 523.283, 1, 2, 3, 4, and 5, 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[;

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.

7 or it may exercise the power of eminent domain in the manner provided by any other applicable
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, **in addition to**
12 **complying with such requirements of chapter 523, RSMo.**

13 2. Property already devoted to a public use may be acquired in like manner, provided that
14 no real property belonging to the municipality, the county or the state may be acquired without
15 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, **in addition to complying with such**
12 **requirements of chapter 523, RSMo.**

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

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

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

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

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

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

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

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

3. An urban redevelopment corporation **operating pursuant to a redevelopment agreement with a municipality for a particular redevelopment area, which agreement was executed prior to August 31, 2006**, may exercise the power of eminent domain **in such redevelopment area** in the manner provided for corporations in chapter 523, RSMo; or it may exercise the power of eminent domain in the manner provided by any other applicable statutory provision for the exercise of the power of eminent domain. Property already devoted to a public

16 use may be acquired in like manner, provided that no real property belonging to any city, county,
17 or the state, or any political subdivision thereof may be acquired without its consent.

2 523.040. **1.** The court, or judge thereof in vacation, on being satisfied that due notice
3 of the pendency of the petition has been given, shall appoint three disinterested commissioners,
4 who shall be residents of the county in which the real estate or a part thereof is situated, to assess
5 the damages which the owners may severally sustain by reason of such appropriation, who,
6 **within forty-five days after appointment by the court which may be extended to a date**
7 **certain with good cause shown, after considering the factors provided in subsection 3 of**
8 **this section,** after having viewed the property, shall return to the clerk of such court, under oath,
9 their report in duplicate, of such assessment of damages, setting forth the amount of damages
10 allowed to the person or persons named as owning or claiming the tract of land condemned, and
11 should more than one tract be condemned in the petition, then the damages allowed to the owner,
12 owners, claimant or claimants of each tract, respectively, shall be stated separately, together with
13 a specific description of the tracts for which such damages are assessed; and the clerk shall file
14 one copy of said report in his office and record the same in the order book of the court, and he
15 shall deliver the other copy, duly certified by him, to the recorder of deeds of the county where
16 the land lies (or to the recorder of deeds of the city of St. Louis, if the land lies in said city) who
17 shall record the same in his office, and index each tract separately as provided in section 59.440,
18 RSMo, and the fee for so recording shall be taxed by the clerk as costs in the proceedings; and
19 thereupon such company shall pay to the clerk the amount thus assessed for the party in whose
20 favor such damages have been assessed; and on making such payment it shall be lawful for such
21 company to hold the interest in the property so appropriated for the uses prescribed in this
22 section; and upon failure to pay the assessment, the court may, upon motion and notice by the
23 party entitled to such damages, enforce the payment of the same by execution, unless the said
24 company shall, within ten days from the return of such assessment, elect to abandon the proposed
25 appropriation of any parcel of land, by an instrument in writing to that effect, to be filed with the
26 clerk of the court, and 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 of this section, a**
29 **commissioner shall notify all named parties no less than five days prior to the viewing of**
30 **the property of their opportunity to accompany the commissioners on a viewing of the**
31 **property and of their opportunity to present information to the commissioners.**

32 **3. The commissioners shall consider the following factors: comparable sales in the**
33 **area; current use of the property; fair market value of the property based upon its highest**
34 **and best use; availability of comparable property in the area; and heritage value of the**
property.

35 (1) For the purposes of this section, “heritage value” shall mean a value assigned to
36 any real property that has been owned by the same family for one or more years;

37 (2) The line of ownership for the property from the original settler or buyer may
38 be through the children, grandchildren, siblings, and nephews or nieces, including through
39 marriage or adoption to meet the standard of same family;

40 (3) If the ownership of the real property is by an entity, the family must control
41 more than fifty percent of the entity in order to meet the standard of same family;

42 (4) A sliding scale shall be used to determine the heritage value award. If the real
43 property has been in the same family for one year, the award for heritage value may be an
44 additional amount not to exceed one percent of the original award of damages paid to the
45 property owner. An additional percent increase shall be added for each year above one
46 year, with the total award for heritage value not to exceed one hundred percent of the
47 original award of damages paid to the property owner for the real property owned by the
48 same family for one hundred years or more.

49 **4. The commissioners shall view the property, hear arguments, and review other**
50 **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. The writ of possession shall be executed in the manner provided by law
11 for the execution of writs of possession in ejectment suits for the recovery of land. If a writ of
12 possession is issued or a motion filed asking for an extension [by said owners], then all costs
13 accrued in executing the writ and in the hearing of the motion may be assessed against the said
14 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 consider the same factors as provided in subsection 3 of section**
5 **523.040.**

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.

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

6 2. The governing body of any city, or agency thereof, prior to approval of a plan, project
7 or area for redevelopment under the operation of chapter 99, RSMo, chapter 100, RSMo, or
8 chapter 353, RSMo, which proposes or includes within its provisions or necessitates
9 displacement of persons, when such displacement is not subject to the provisions of the Federal
10 Uniform Relocation and Real Property Acquisition Policies Act of 1970 (42 U.S.C. sections
11 4601 to 4655, as amended) or subsection 1 of this section, shall establish by ordinance or rule
12 a relocation policy which shall include, but not be limited to, the provisions and requirements
13 of subsections 2 to 15 of this section, or in lieu thereof, such relocation policy shall contain
14 provisions and requirements which are equivalent to the requirements of the Federal Uniform
15 Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. sections
16 4601 to 4655, as amended).

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

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

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

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

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

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

25 (b) Contain a safe electrical wiring system;

26 (c) Contain an adequate heating system;

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

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

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

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

39 (5) "Person", any individual, family, partnership, corporation, or association.

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

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

45 (1) Payments to all eligible displaced persons, as defined, who occupied the property to
46 be acquired for not less than ninety days prior to the initiation of negotiations who are required
47 to vacate the premises;

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

51 (3) A program for referrals of displaced persons with provisions for a minimum of three
52 decent, safe and sanitary housing referrals for residential persons or suitable referral sites for
53 displaced businesses, a minimum of ninety days' notice of referral sites for handicapped
54 displaced persons and sixty days' notice of referral sites for all other displaced persons prior to
55 the date such displaced persons are required to vacate the premises, and arrangements for
56 transportation to inspect referral sites; and

57 (4) Every displaced person shall be given a ninety-day notice to vacate, prior to the date
58 such displaced person is required to vacate the premises.

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

61 (1) A [five-hundred-dollar] **one-thousand-dollar** fixed payment; or

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

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

69 (1) A [one-thousand-five-hundred-dollar] **three-thousand-dollar** fixed payment; or

70 (2) Actual costs of moving including costs for packing, crating, disconnection,
71 dismantling, reassembling and installing all personal equipment and costs for relettering similar
72 signs and similar replacement stationery, **and other reasonable costs of moving. Such costs**
73 **of relocation shall not include the cost of a replacement property or any capital**
74 **improvements thereto.**

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

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

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

84 9. Any displaced person, who is also the owner of the premises, may waive relocation
85 payments as part of the negotiations for acquisition of the interest held by such person. Such
86 waiver shall be in writing, shall disclose the person's knowledge of the provisions of this section
87 and his entitlement to payment and shall be filed with the acquiring public agency.

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

91 11. Any urban redevelopment corporation, its assigns or transferees, which have been
92 provided any assistance under the operation of chapter 99, RSMo, chapter 100, RSMo, chapter
93 353, RSMo, or this chapter, with land acquisition by the local governing body, shall be required
94 to make a report to the local governing body or appropriate public agency which shall include,
95 but not be limited to, the addresses of all occupied residential buildings and structures within the
96 redevelopment area and the names and addresses of persons displaced by the redeveloper and

97 specific relocation benefits provided to each person, as well as a sample notice provided to each
98 person.

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

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

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

109 15. The provisions of sections 523.200 and 523.205 shall apply to land acquisitions
110 under the operation of chapter 99, RSMo, chapter 100, RSMo, or chapter 353, RSMo, filed for
111 approval, approved or amended on or after August 31, 1991.

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

5 (1) Identification of the interest in real property to be acquired, including the estate
6 or interest to be acquired and a legal description of the same;

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

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

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

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

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

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

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

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

17

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

20 2. The written notice required by this section shall be deposited in the United States
21 mail, certified or registered, and with postage prepaid, addressed to the owner of record

22 as listed in the office of the city or county assessor for the city or county in which the
23 property is located. The receipt issued to the condemning authority by the United States
24 Post Office for certified or registered mail shall constitute proof of compliance with this
25 notice requirement; provided, however, that nothing in this section shall preclude a
26 condemning authority from proving compliance with this notice requirement by other
27 competent evidence.

28 3. Any condemning authority or its agent shall provide the notice provided in
29 subsection 1 of this section with the initial offer. Failure to comply with this subsection
30 shall prohibit the condemning authority from exercising eminent domain on that parcel
31 for a period of one hundred eighty days.

523.253. 1. A condemning authority shall present a written offer to all owners of
2 record of the property, pursuant to subsection 2 of this section. The offer must be made
3 at least thirty days before filing a condemnation petition and shall be held open for the
4 thirty-day period unless an agreement is reached sooner. The offer shall be deposited in
5 the United States mail, certified or registered, and with postage prepaid, addressed to the
6 owner of record as listed in the office of the city or county assessor for the city or county
7 in which the property is located. The receipt issued to the condemning authority by the
8 United States Post Office for certified or registered mail shall constitute proof of
9 compliance with this notice requirement; provided, however, that nothing in this section
10 shall preclude a condemning authority from proving compliance with this notice
11 requirement by other competent evidence. Nothing in this section shall prohibit the parties
12 from negotiating during the thirty-day period.

13 2. (1) Where the condemning authority, based upon its good faith belief, has
14 determined that the fair market value of the condemned property exceeds ten thousand
15 dollars, the condemning authority shall provide the owner with a copy of a summary of the
16 damages caused by the condemnation, including an appraisal prepared by a state-licensed
17 or state-certified real estate appraiser at the time the offer required by subsection 1 of this
18 section is given. For other acquisitions, the condemning authority shall provide an
19 explanation of the basis for its determination of just compensation in lieu of providing an
20 appraisal.

21 (2) The appraisals referred to in this section shall be made using sound, fair, and
22 recognized appraisal practices which are consistent with the Uniform Standards of
23 Professional Appraisal Practice in effect at the time of the appraisal, as promulgated by the
24 Appraisal Foundation, and any additional applicable state or federal law or regulation
25 practice governing acquisitions by the condemning authority.

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

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

(2) Its offer under section 523.253 was no lower than the amount reflected in an appraisal performed by a state-licensed or state-certified appraiser, provided an appraisal is required by the terms of this chapter or, in other cases, is no lower than the amount provided in the basis for its determination of just compensation provided to the owner pursuant to subsection 2 of section 523.253;

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

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

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

523.259. If any condemning authority abandons condemnation at any point prior to the final judgment of the court, the court shall order the condemning authority to pay the landowner's legal fees and expenses, and shall award damages accruing as a direct and proximate result of the pendency of the condemnation if proven by the landowner. Ceasing proceedings by agreement or settlement shall not deem the condemnation abandoned.

523.261. Solely with regard to condemnation actions pursuant to the authority granted by section 21, article VI, Constitution of Missouri and laws enacted pursuant thereto, any legislative determination that an area is blighted, substandard, or insanitary shall not be arbitrary or capricious and shall be supported by substantial evidence; that such procedural and evidentiary standards have been met shall be reviewable by a court of competent jurisdiction. Upon the filing of an appeal of the legislative determination at the circuit court, the court shall give the case preference in the order of hearing to all other cases, except elections cases, to the extent necessary to conclude the case within thirty days of having been filed. Any subsequent or interlocutory appeal to a higher court on the appeal of the legislative determination shall be given preference and concluded in an expedited manner similar to the manner set forth herein for a hearing in circuit court. An

12 interlocutory appeal shall not stay proceedings in the court unless the court of appeals so
13 orders.

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

8 **2. A private utility company, public utility, rural electric cooperative, municipally
9 owned utility, pipeline, railroad or common carrier shall have the right of eminent domain
10 as may be granted pursuant to the provisions of other statutes. Where a condemnation by
11 such an entity results in a "displaced person", as defined in section 523.200, the provisions
12 of subsections 3 to 10 of section 523.205 shall apply, unless the condemning entity is subject
13 to the relocation assistance provisions of the federal Uniform Relocation Assistance Act.**

2 **523.265. With regard to property interests acquired by condemnation or
3 negotiations in lieu of the exercise thereof, within thirty days of receiving a written notice
4 sent under section 523.250, the landowner may propose to the condemning authority in
5 writing an alternative location for the property to be condemned, which alternative
6 location shall be on the same parcel of the landowner's property as the property the
7 condemning authority seeks to condemn. The proposal shall describe the alternative
8 location in such detail that the alternative location is clearly defined for the condemning
9 authority. The condemning authority shall consider all such alternative locations. This
10 section shall not apply to total takings.**

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

4 **2. For the purposes of this section, "economic development" shall mean a use of a
5 specific piece of property or properties which would provide an increase in the tax base,
6 tax revenues, and employment for any political subdivision or state government. In any
7 county of the third classification without a township form of government and with more
8 than eight thousand three hundred but fewer than eight thousand four hundred
9 inhabitants, where property is acquired through the use of eminent domain, tax increment
10 financing shall not be used for development of such property.**

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

4 statutory definition of blight. If the condemning authority finds that the area is
5 predominantly blighted, it may proceed with condemnation of any parcels in such area.

2 523.277. The office of public counsel shall create an office of ombudsman by
3 appointing a person to the position of ombudsman. The ombudsman shall assist citizens
4 by providing guidance, which shall not constitute legal advice, to individuals seeking
5 information regarding the condemnation process and procedures.

2 523.283. 1. Easements or right-of-way interests acquired by a private utility
3 company, public utility, rural electric cooperative, or municipally owned utility, by either
4 formal eminent domain proceedings or by negotiations in lieu of eminent domain
5 proceedings, are fixed and determined by the particular use for which the property was
6 acquired as described in either the instrument of conveyance or in the condemnation
7 petition. Expanded use of the property beyond that which is described in the instrument
8 of conveyance or the condemnation petition shall require either an additional eminent
9 domain proceeding in order to acquire the additional rights or by new negotiations for the
10 expanded use of the property and appropriate consideration and damages to the current
11 owner of the property for the expanded use.

12 2. For purposes of this section, the term "expanded use" shall mean the exclusion
13 of use by the owner of the burdened property from an area greater than the area of the
14 permanent easement originally acquired or use of the easement originally acquired beyond
15 the scope of the uses allowed as described in the instrument of conveyance or
16 condemnation petition.

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

22 4. If a property owner prevails in a trespass action against a private utility
23 company, public utility, rural electric cooperative, or municipally owned utility, such
property owner may be awarded reasonable attorneys fees, costs, and expenses.

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

4 2. For the purposes of this section only, the term "farmland" shall mean all real
5 property classified as forest cropland or all real property used for agricultural purposes
6 and devoted primarily to the raising and harvesting of crops; to the feeding, breeding, and
7 management of livestock which shall include breeding and boarding of horses; to dairy
operations, or to any combination thereof; and buildings and structures customarily

8 associated with farming, agricultural, and horticultural uses. Farmland shall also include
9 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. Any easements that are acquired on or after August 28, 2006, through
2 the power of eminent domain or pursuant to negotiations in lieu of the exercise thereof,
3 which, for a period of fifteen consecutive years, are not used in whole or in part for the
4 purpose for which they were acquired as provided for in the instrument of conveyance or
5 order of condemnation, shall be vacated of record by the holder of the easement upon
6 written request from the then-owner of record of the burdened property. The owner of
7 record may make such a written request after the fifteen-year period has expired;
8 provided, that if the holder of the easement does not vacate the easement within ninety
9 days after receipt of the request, the landowner shall have the right to petition the circuit
10 court of the county in which the burdened property is located to obtain vacation of the
11 easement and the holder shall have the opportunity to ask the circuit court to grant an
12 extension of the fifteen-year period to the extent reasonably necessary in order to address
13 delays to the use of the easement caused by construction delays, environmental impact
14 assessments, or other circumstances that have not been caused by the easement holder and
15 that have prevented the easement holder from using the easement in whole or in part for
16 the purposes provided for in the instrument of conveyance or condemnation order within
17 the fifteen-year period. The holder of the easement shall be a party to any such action and,
18 if the court agrees that an extension is warranted, the costs of such action shall be paid by
19 the landowner; otherwise, if the court orders the easement to be vacated, the costs of the
20 action shall be borne by the easement holder. The right to request that an easement be
21 vacated may be waived by the owner of record from whom the easement was originally
22 acquired or by such owner's successor in title to the burdened property either in the
23 original instrument of conveyance or in a subsequent signed writing.

Section 4. Any existing contract for land use or real property with a governmental
2 entity or a condemning authority shall not later be amended without full compensation in

3 the amount of the original contract. Once funds or land titles have been exchanged, the
4 contract is exempt from any exceptions after a period of thirty calendar days.

Section 5. No condemning authority shall have the right to acquire by the exercise
2 of the power of eminent domain any real property in fee simple or any other estate upon
3 which a place of religious worship is situated. For the purpose of this section, a “place of
4 religious worship” shall mean any place where an organization, church, body of
5 communicants, or group, gathers in common membership for mutual support and
6 edification in piety, worship and religious observances or any society of individuals united
7 for religious purposes at a definite place. In order to qualify as a religious organization,
8 no part of the net earnings of the organization may inure to the benefit of any private
9 shareholder or any individual member or such organization. Such organization must have
10 obtained an exemption from the payment of federal income taxes as provided by section
11 501(c)(3) or section 501(d) of the Internal Revenue Code of 1954, as amended, for ten
12 consecutive years at the same location.

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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