

FIRST REGULAR SESSION

# HOUSE BILL NO. 991

99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE KORMAN.

0243H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 523.001 and 523.039, RSMo, and to enact in lieu thereof two new sections relating to compensation for condemned property.

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

Section A. Sections 523.001 and 523.039, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 523.001 and 523.039, to read as follows:

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

(1) **"Century value", the value assigned to any real property including, but not limited to, real property owned by a business enterprise with fewer than one hundred employees, that has been owned within the same family for one hundred or more years, such value to be one hundred percent of fair market value;**

(2) "Fair market value", the value of the property taken after considering comparable sales in the area, capitalization of income, and replacement cost less depreciation, singularly or in combination, as appropriate, and additionally considering the value of the property based upon its highest and best use, using generally accepted appraisal practices. If less than the entire property is taken, fair market value shall mean the difference between the fair market value of the entire property immediately prior to the taking and the fair market value of the remaining or burdened property immediately after the taking;

~~(2)~~ (3) "Heritage value", the value assigned to any real property, including but not limited to real property owned by a business enterprise with fewer than one hundred employees, that has been owned within the same family for fifty or more years, such value to be fifty percent of fair market value;

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           ~~[(3)]~~ (4) "Homestead taking", any taking of a dwelling owned by the property owner and  
18 functioning as the owner's primary place of residence or any taking of the owner's property  
19 within three hundred feet of the owner's primary place of residence that prevents the owner from  
20 utilizing the property in substantially the same manner as it is currently being utilized.

523.039. 1. 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 or more years, an  
11 amount equivalent to the sum of the fair market value and heritage value. For the purposes of  
12 this subdivision, family ownership of property may be established through evidence of ownership  
13 by children, grandchildren, siblings, or nephews or nieces of the family member owning the  
14 property fifty years prior to the taking; and in addition, may be established through marriage or  
15 adoption by such family members. If any entity owns the real property, members of the family  
16 shall have an ownership interest in more than fifty percent of the entity in order to be within the  
17 family line of ownership for the purposes of this subdivision. The property owner shall have the  
18 burden of proving to the commissioners or jury that the property has been owned within the same  
19 family for fifty or more years; or

20           **(4) For condemnations of property that result in any taking that prevents the owner**  
21 **from utilizing property in substantially the same manner as it was currently being utilized**  
22 **on the day of the taking and involving property owned within the same family for one**  
23 **hundred or more years, an amount equivalent to the sum of the fair market value and**  
24 **century value. For the purposes of this subdivision, family ownership of property may be**  
25 **established through evidence of ownership by children, grandchildren, siblings, or**  
26 **nephews or nieces of the family member owning the property one hundred years prior to**  
27 **the taking; and in addition, may be established through marriage or adoption by such**  
28 **family members. If any entity owns the real property, members of the family shall have**  
29 **an ownership interest in one hundred percent of the entity in order to be within the family**  
30 **line of ownership for the purposes of this subdivision. The property owner shall have the**  
31 **burden of proving to the commissioners or jury that the property has been owned within**  
32 **the same family for one hundred or more years.**

33           **2. When determining the appropriate compensation to be awarded to the property**  
34 **owner under subsection 1 of this section, the property owner shall be allowed to present**  
35 **evidence and argue the value of the future use of the property that is to be taken.**

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