

FIRST REGULAR SESSION

HOUSE BILL NO. 181

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ELLEBRACHT.

0168H.021

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 523.001 and 523.039, RSMo, and to enact in lieu thereof two new sections relating to heritage value in condemnation proceedings.

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Section A. Sections 523.001 and 523.039, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 523.001 and 523.039, to read as follows: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) "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) "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]~~ **at least ten years**~~[-such value to be fifty percent of fair market value]~~ **and one day. Heritage value for property that has been owned within the same family for ten years and one day to twenty years shall be ten percent of fair market value; for every ten years and one day increment thereafter, such value shall increase by ten percent for each such increment;**

(3) "Homestead taking", any taking of a dwelling owned by the property owner and functioning as the owner's primary place of residence or any taking of the owner's property

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.

18 within three hundred feet of the owner's primary place of residence that prevents the owner from
19 utilizing the property in substantially the same manner as it is currently being utilized.

2 523.039. In all condemnation proceedings filed after December 31, 2006, just
3 compensation for condemned property shall be determined under one of the three following
4 subdivisions, whichever yields the highest compensation, as applicable to the particular type of
5 property and taking:

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

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

9 (3) For condemnations of property that result in any taking that prevents the owner from
10 utilizing property in substantially the same manner as it was currently being utilized on the day
11 of the taking and involving property owned within the same family for [~~fifty or more~~] **at least**
12 **ten years and one day**, an amount equivalent to the sum of the fair market value and heritage
13 value. For the purposes of this subdivision, family ownership of property may be established
14 through evidence of ownership by children, grandchildren, siblings, or nephews or nieces of the
15 family member owning the property [~~fifty~~] **at least ten years and one day** prior to the taking;
16 and in addition, may be established through marriage or adoption by such family members. If
17 any entity owns the real property, members of the family shall have an ownership interest in
18 more than [~~fifty~~] **ten** percent of the entity in order to be within the family line of ownership for
19 the purposes of this subdivision. The property owner shall have the burden of proving to the
20 commissioners or jury that the property has been owned within the same family for [~~fifty or~~
~~more~~] **at least ten years and one day**.

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