

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL NO. 3  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “Senator DeGrange” and substitute “Senators DeGrange, Forehand, Garagiola, and Giannetti”.

AMENDMENT NO. 2

On page 1, in line 7, after “findings;” insert “prohibiting a government unit from condemning private property used for a farm operation under certain circumstances;”; in line 8, strike “may” and substitute “shall”; in line 14, after “received;” insert “establishing a certain limitation on the amount of compensation for goodwill;”; in line 16, after “administrative” insert “or legislative”; strike beginning with “requiring” in line 20 down through “issue;” in line 22 and substitute “requiring the plaintiff in a condemnation proceeding to pay certain costs incurred by the defendant under certain circumstances; establishing a right to reacquire certain condemned land not needed for a public purpose; establishing procedures for the reacquisition of certain condemned land;”; and in line 28, strike “altering” and substitute “repealing”.

On page 2, in line 1, after “12-101” insert “, 12-106,”; and in line 6, strike “12-105.2” and substitute “12-113”.

AMENDMENT NO. 3

On page 2, after line 35, insert:

“(3) “ECONOMIC DEVELOPMENT” INCLUDES INCREASING TAX REVENUE, TAX BASE, EMPLOYMENT, OR GENERAL ECONOMIC HEALTH.”.

On page 3, in lines 1 and 3, strike “(3)” and “(4)”, respectively, and substitute “(4)” and “(5)”, respectively.

(Over)

AMENDMENT NO. 4

On page 3 in lines 8, 13 and 14, 15, 34, and 36 and 37, and on page 4 in lines 1 and 2 and lines 3 and 4, in each instance, strike “OR FARM OPERATION”.

On page 3, in line 3, strike “THE STATE,” and substitute “:

(I) THE STATE;

(II) A COUNTY, POLITICAL SUBDIVISION, OR MUNICIPAL CORPORATION; OR

(III);

in line 5, after the third “OR” insert “OF”; and in line 18, before “NOTWITHSTANDING” insert “EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION,”.

On page 4, after line 18, insert:

“(F) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A GOVERNMENT UNIT MAY NOT CONDEMN PRIVATE PROPERTY USED FOR A FARM OPERATION IF THE PROPERTY WILL BE SOLD, LEASED, TRANSFERRED, OR OTHERWISE CONVEYED TO OR FOR THE BENEFIT OF A PRIVATE PARTY FOR PURPOSES OF URBAN RENEWAL OR ECONOMIC DEVELOPMENT.”.

AMENDMENT NO. 5

On page 4, in line 2, strike “AND”; and in line 5, after “PLAN” insert “; AND

(III) IF A BUSINESS COULD NOT BE INCLUDED IN THE COMPREHENSIVE DEVELOPMENT PLAN, THE GOVERNMENT UNIT HAS PROVIDED THE DISPLACED OWNER OR TENANT OF THE BUSINESS WITH AN ALTERNATIVE LOCATION SUITABLE TO MAINTAIN THE BUSINESS”.

AMENDMENT NO. 6

On pages 4 and 5, strike in their entirety the lines beginning with line 27 on page 4 through line 22 on page 5, inclusive, and substitute:

“(IV) “GOODWILL” MEANS THE BENEFITS THAT ACCRUE TO A BUSINESS OR FARM OPERATION AS A RESULT OF:

1. ITS LOCATION;
2. ITS REPUTATION FOR DEPENDABILITY, SKILL, OR QUALITY; AND
3. ANY OTHER CIRCUMSTANCES RESULTING IN PROBABLE RETENTION OF EXISTING CUSTOMERS OR ACQUISITION OF NEW CUSTOMERS.

(2) IN ADDITION TO ANY OTHER DAMAGES ALLOWED UNDER THIS SECTION, THE OWNER OF A BUSINESS OR FARM OPERATION CONDUCTED ON THE PROPERTY TAKEN, OR ON THE REMAINDER IF THERE IS A PARTIAL TAKING, IS ENTITLED TO:

(I) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, COMPENSATION FOR LOSS OF GOODWILL, IF THE OWNER PROVES THAT THE LOSS:

1. IS CAUSED BY THE TAKING OF THE PROPERTY OR THE INJURY TO THE REMAINDER;
2. CANNOT REASONABLY BE PREVENTED BY A RELOCATION OF THE BUSINESS OR FARM OPERATION OR BY TAKING STEPS AND ADOPTING PROCEDURES THAT A REASONABLY PRUDENT PERSON WOULD TAKE AND ADOPT IN PRESERVING THE GOODWILL;
3. WILL NOT BE INCLUDED IN RELOCATION PAYMENTS UNDER SUBTITLE 2 OF THIS TITLE; AND
4. WILL NOT BE DUPLICATED IN THE COMPENSATION AWARDED TO THE OWNER; AND

(II) IF THE BUSINESS OR FARM OPERATION CANNOT BE CONTINUED ON THE PROPERTY AS A RESULT OF THE TAKING, BUT THE BUSINESS

(Over)

OR FARM OPERATION CAN BE RELOCATED, COMPENSATION FOR THE PRESENT VALUE OF REASONABLY ANTICIPATED REDUCTIONS IN NET OPERATING INCOME THAT ARE CAUSED BY THE TAKING AND THE RELOCATION OF THE BUSINESS OR FARM OPERATION FOR A PERIOD NOT EXCEEDING 3 YEARS FROM THE DATE OF THE RELOCATION.

(3) COMPENSATION FOR LOSS OF GOODWILL UNDER THIS SUBSECTION MAY NOT EXCEED 5 TIMES THE AVERAGE NET OPERATING INCOME FOR THE PREVIOUS 3 TAXABLE YEARS.”.

AMENDMENT NO. 7

On page 5, in line 27, after “ADMINISTRATIVE” insert “OR LEGISLATIVE”.

AMENDMENT NO. 8

On pages 5 and 6, strike in their entirety the lines beginning with line 34 on page 5 through line 3 on page 6, inclusive.

AMENDMENT NO. 9

On page 6, after line 3, insert:

“12-106.

- (a) The plaintiff shall pay all the costs in the trial court.
- (b) The costs in a condemnation proceeding include:
  - (1) The usual per diem to the jurors;
  - (2) The cost of transporting the trier of fact to view the property;
  - (3) The cost of meals for the jury if the court so orders;
  - (4) The cost of recording the inquisition among the land records and of all documentary stamps which may be required in the transfer of the property to the plaintiff; and

(5) An allowance to the defendant, as fixed by the court, for the reasonable legal, appraisal, and engineering fees actually incurred by the defendant because of the condemnation proceeding[, if]:

(I) IF the judgment is for the defendant on the right to condemn; OR

(II) IF THE JUDGMENT IS FOR THE PLAINTIFF ON THE RIGHT TO CONDEMN, THE AMOUNT OF DAMAGES AWARDED TO THE DEFENDANT IS AT LEAST 30% MORE THAN:

1. IN A “QUICK-TAKE” PROCEEDING, THE AMOUNT OF MONEY PAID INTO COURT; OR

2. IN ANY OTHER PROCEEDING, THE AMOUNT OFFERED BY THE PLAINTIFF IN WRITING AT LEAST 30 DAYS BEFORE THE COMPLAINT WAS FILED.

(c) In proceeding under Article III of the Constitution of the State, or any amendment to it, the plaintiff shall pay interest at the rate of 6 percent per annum on any difference between the amount of money initially paid into court for the use of the defendant and the jury award as stated in the inquisition, from the date the money was paid into court to the date of the inquisition or final judgment, whichever date is later.

(d) On taking possession, acquiring the right to take possession, or the actual transfer of title to the plaintiff, whichever occurs first, the plaintiff immediately shall file with the supervisor of assessments for the county involved a written notification or record setting forth in sufficient detail the area of the land and a description of any improvement being acquired. If the plaintiff is an agency or instrumentality of the State, the supervisor of assessments, on filing of the notification or record, immediately shall remove the property from the tax rolls.”.

AMENDMENT NO. 10

On page 6, before line 4, insert:

(Over)

“12-113.

(A) IN THIS SECTION, “GOVERNMENT UNIT” MEANS:

(1) THE STATE;

(2) A COUNTY, POLITICAL SUBDIVISION, OR MUNICIPAL CORPORATION; OR

(3) AN AGENCY, AUTHORITY, BOARD, COMMISSION, COUNCIL, OFFICE, PUBLIC OR QUASI-PUBLIC CORPORATION, OR OTHER UNIT OR INSTRUMENTALITY OF THE STATE OR OF A COUNTY, POLITICAL SUBDIVISION, OR MUNICIPAL CORPORATION.

(B) THIS SECTION DOES NOT APPLY TO LAND ACQUIRED UNDER TITLE 8, SUBTITLE 3 OF THE TRANSPORTATION ARTICLE.

(C) IF LAND ACQUIRED UNDER THIS SUBTITLE IS NOT NEEDED FOR A PRESENT OR FUTURE PUBLIC PURPOSE, THE GOVERNMENT UNIT THAT ACQUIRED IT SHALL DISPOSE OF THE LAND AS SOON AS PRACTICABLE AFTER THE COMPLETION OR ABANDONMENT OF THE PROJECT FOR WHICH THE LAND WAS ACQUIRED.

(D) IF THE LAND IS NOT NEEDED FOR A PUBLIC PURPOSE, THE PERSON FROM WHOM THE LAND WAS ACQUIRED OR THE SUCCESSOR IN INTEREST OF THAT PERSON HAS THE RIGHT TO REACQUIRE THE LAND, ON PAYMENT OF AN AMOUNT EQUAL TO THE LESSER OF:

(1) THE APPRAISED VALUE OF THE LAND; OR

(2) THE CONSIDERATION THAT THE GOVERNMENT UNIT ORIGINALLY PAID FOR THE LAND, PLUS SIMPLE INTEREST AT THE FAIR MARKET VALUE CALCULATED FROM THE TIME OF ACQUISITION TO THE TIME OF DISPOSITION AND ADMINISTRATIVE COSTS.

(E) (1) THE GOVERNMENT UNIT SHALL NOTIFY THE PERSON FROM WHOM THE LAND WAS ACQUIRED, OR THE SUCCESSOR IN INTEREST OF THAT PERSON, WITHIN 30 DAYS AFTER MAKING A DETERMINATION THAT THE LAND IS NOT NEEDED FOR A PUBLIC PURPOSE AND THAT THE LAND IS AVAILABLE FOR REACQUISITION.

(2) IF THE RIGHT TO REACQUIRE THE LAND IS NOT EXERCISED WITHIN 6 MONTHS AFTER THE GOVERNMENT UNIT PROVIDES THE NOTICE THAT THE LAND IS AVAILABLE, THE GOVERNMENT UNIT SHALL DISPOSE OF THE LAND IN ACCORDANCE WITH APPLICABLE LAW.”.

AMENDMENT NO. 11

On page 7, strike beginning with “nor” in line 26 down through “greater” in line 27.