

**Senator Dennis E. Stowell** proposes the following substitute bill:

**CONDEMNATION AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Dennis E. Stowell**

House Sponsor: Craig A. Frank

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to eminent domain.

**Highlighted Provisions:**

This bill:

- ▶ requires a condemnor acquiring property under threat of condemnation to provide a written statement identifying the public use for which the property is acquired;
- ▶ requires a condemnor to offer to sell the acquired property to the condemnee at the acquisition price before the property is put to a use other than the public use for which it was acquired, with exceptions;
- ▶ authorizes a condemnee to accept the offer and purchase the property at the acquisition price if the offer is accepted within a specified time;
- ▶ requires the condemnee to conclude the purchase of acquired property within a reasonable time after accepting the offer;
- ▶ provides that a condemnor has no further obligation to a condemnee with respect to the property if the condemnee fails to accept the offer in the time specified;
- ▶ provides that a condemnor's obligation to offer acquired property to the condemnee terminates once the acquired property is put to the use for which it is acquired;
- ▶ provides that the sale or transfer of acquired property none of which has been put to



26 the use for which it was acquired is considered a use other than the public use for which it was  
27 acquired;

28 ▶ provides that a condemnee may waive the condemnee's right to purchase acquired  
29 property; and

30 ▶ clarifies this provision's impact on existing law.

31 **Monies Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 ENACTS:

37 **78B-6-520.3**, Utah Code Annotated 1953



38  
39 *Be it enacted by the Legislature of the state of Utah:*

40 Section 1. Section **78B-6-520.3** is enacted to read:

41 **78B-6-520.3. Property sold under threat of eminent domain -- Right to repurchase**  
42 **property if property not used for purpose for which acquired.**

43 (1) As used in this section:

44 (a) "Acquired property" means property that a condemnor purchases after May 11,  
45 2009 from a condemnee under threat of condemnation.

46 (b) "Acquisition price" means the price which a condemnor pays a condemnee for  
47 property that the condemnor acquires under threat of condemnation.

48 (c) "Condemnee" means an owner of property who sells the property to a condemnor  
49 under threat of condemnation.

50 (d) "Condemnor" means a person who acquires property by purchase from a  
51 condemnee under threat of condemnation.

52 (e) "Under threat of condemnation" means the circumstances under which a  
53 condemnor, with the right to acquire the property by eminent domain, acquires property from a  
54 condemnee in a transaction that occurs:

55 (i) without a judgment having been entered in an eminent domain action; and

56 (ii) after the condemnor has sent the condemnee a written notice indicating an intent to

57 pursue an eminent domain action to a judgment compelling the transaction.

58 (2) At the time of or within a reasonable time after an acquisition of property under  
59 threat of condemnation, a condemnor shall provide the condemnee a written statement  
60 identifying the public use for which the property is being acquired.

61 (3) Subject to Subsection (6), before the acquired property may be put to a use other  
62 than the public use for which the property was acquired, the condemnor shall send a written  
63 offer by certified mail to the condemnee at the condemnee's last known address, offering to sell  
64 the acquired property to the condemnee at the acquisition price.

65 (4) (a) A condemnee may accept an offer under Subsection (3) if the offer is accepted  
66 within 90 days after the offer is sent to the condemnee.

67 (b) A condemnee's purchase of acquired property under this section shall be concluded  
68 within a reasonable time after the condemnee accepts the condemnor's offer to sell the acquired  
69 property.

70 (5) If the condemnee does not accept an offer under Subsection (3) within the time  
71 specified in Subsection (4), the condemnor has no further obligation under this section to the  
72 condemnee with respect to the acquired property.

73 (6) If a condemnor puts acquired property to the public use for which the property was  
74 acquired, the condemnor's obligation under Subsection (3) to offer to sell the acquired property  
75 to the condemnee terminates, even if the acquired property is subsequently put to a use other  
76 than the public use for which the property was acquired.

77 (7) A sale or transfer of acquired property none of which has been put to the public use  
78 for which the property was acquired is:

79 (a) considered to be a use other than the public use for which the property was  
80 acquired; and

81 (b) governed by this section and not Section 78B-6-521.

82 (8) Nothing in this section may be construed to affect any right or obligation under  
83 Section 78B-6-521.

84 (9) A condemnee may waive the condemnee's right to purchase acquired property as  
85 provided in this section by executing a written waiver.