

**CONDEMNATION AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Dennis E. Stowell**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to eminent domain.

**Highlighted Provisions:**

This bill:

▶ authorizes a person whose property is acquired under threat of eminent domain to:

• agree with the condemnor to a reasonable amount of time for commencement of construction and use of all the property that is the subject of the condemnation acquisition; and

• commence an action to set aside the condemnation acquisition if commencement of construction or use of all the property has not been accomplished within the time specified;

▶ requires a condemnor who acquires property under threat of eminent domain to inform the condemnee of those rights; and

▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



28 78B-6-520, as renumbered and amended by Laws of Utah 2008, Chapter 3



30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section 78B-6-520 is amended to read:

32 78B-6-520. Action to set aside condemnation for failure to commence or complete  
33 construction within reasonable time.

34 ~~[(1) In an action to condemn property, if the court makes a finding of what is a~~  
35 ~~reasonable time for commencement of construction and use of all the property sought to be~~  
36 ~~condemned and the construction and use]~~

37 (1) As used in this section:

38 (a) "Condemnation acquisition" means:

39 (i) for property acquired by a judgment entered in a condemnation action, the  
40 acquisition of property under that judgment; and

41 (ii) for property acquired under threat of condemnation, the acquisition of property  
42 under a transaction entered into under threat of condemnation.

43 (b) "Condemnee" includes a person who sells property under threat of condemnation.

44 (c) "Condemnor" includes a person who acquires property by purchase from a  
45 condemnee under threat of condemnation.

46 (d) "Time specified" means:

47 (i) for a condemnation acquisition described in Subsection (1)(a)(i), the time that the  
48 court finds to be a reasonable time for commencement of construction and use of all the  
49 property that is the subject of the condemnation acquisition, if the court makes a finding of  
50 what is a reasonable time for commencement of construction and use of all the property; and

51 (ii) for a condemnation acquisition described in Subsection (1)(a)(ii), the time that the  
52 condemnor and the condemnee agree to be a reasonable amount of time for commencement of  
53 construction and use of all the property that is the subject of the condemnation acquisition.

54 (2) If commencement of construction or use of all the property that is the subject of the  
55 condemnation acquisition is not accomplished within the time specified, the condemnee may  
56 file an action against the condemnor to set aside the condemnation acquisition of the entire  
57 parcel or any portion upon which construction and use was to have taken place.

58 ~~[(2)]~~ (3) In the action, if the court finds that the condemnor, without reasonable

59 justification, did not commence or complete construction and use within the time specified, it  
60 shall enter judgment fixing the amount the condemnor has paid the condemnee, as a result of  
61 the condemnation acquisition and all amounts due the condemnee as damages sustained by  
62 reason of condemnation acquisition, including damages resulting from partial completion of  
63 the contemplated use, plus all reasonable and necessary expenses actually incurred by the  
64 condemnee including attorney fees.

65 [~~(3)~~] (4) If amounts due the condemnee under Subsection [~~(2)~~] (3) exceed amounts  
66 paid by the condemnor, or these amounts are equal, judgment shall be entered in favor of the  
67 condemnee, which judgment shall describe the property condemned and award judgment for  
68 any amounts due condemnee. A copy of the judgment shall be filed in the office of the county  
69 recorder of the county, and the property described in the judgment shall vest in the condemnee.

70 [~~(4)~~] (5) If amounts paid by the condemnor under Subsection [~~(2)~~] (3) exceed amounts  
71 due the condemnee, judgment shall be entered describing the property condemned and giving  
72 the condemnee 60 days from the date of the judgment to pay the difference between the  
73 amounts to the condemnor. If payment is made, the court shall amend the judgment to reflect  
74 the payment and order the amended judgment filed with the office of the county recorder of the  
75 county, and the property described in the judgment shall vest in the condemnee. If payment is  
76 not made, the court shall amend the judgment to reflect nonpayment and order the amended  
77 judgment filed with the county recorder.

78 (6) A condemnor who seeks to acquire property under threat of eminent domain shall,  
79 before acquiring the property, inform the condemnee in writing of the condemnee's right to:

80 (a) agree with the condemnor to a reasonable amount of time for commencement of  
81 construction and use of all the property that is the subject of the condemnation acquisition; and

82 (b) file an action, as provided in this section, to set aside the condemnation acquisition  
83 if commencement of construction or use of all the property that is the subject of the  
84 condemnation acquisition is not accomplished within the time specified.

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Legislative Review Note  
as of 1-16-09 12:54 PM

Office of Legislative Research and General Counsel

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**S.B. 83 - Condemnation Amendments**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations. However, in some cases where delays occur in construction projects, this bill could increase the state's property acquisition costs and legal fees.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses or local governments. Land owners may benefit by being able to file an action to set aside the condemnation acquisition if the state does meet conditions in the bill.

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