

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

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 or the condemnee's heirs to accept the offer and purchase the property at the acquisition price if the offer is accepted within a specified time;
- ▶ 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 that has not been put to the use for which it was acquired is considered a use other than the public use for which it was acquired; and

3rd Sub. S.B. 83



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

27 **Monies Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 ENACTS:

33 **78B-6-520.3**, Utah Code Annotated 1953



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

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

37 **78B-6-520.3. Property sold under threat of eminent domain -- Right to repurchase**
38 **property if property not used for purpose for which acquired.**

39 (1) As used in this section:

40 (a) "Acquired property" means property that a condemnor purchases from a condemnee
41 under threat of condemnation.

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

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

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

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

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

52 (ii) after the condemnor has taken formal action indicating an intent to pursue an
53 eminent domain action to a judgment compelling the transaction.

54 (2) At the time of or before an acquisition of property under threat of condemnation, a
55 condemnor shall provide the condemnee a written statement identifying the public use for
56 which the property is being acquired.

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

61 (4) A condemnee or the condemnee's heirs may accept an offer under Subsection (3) if
62 the offer is accepted within 90 days after the offer is sent to the condemnee.

63 (5) If the condemnee or the condemnee's heirs do not accept an offer under Subsection
64 (3) within the time specified in Subsection (4), the condemnor has no further obligation under
65 this section to the condemnee or the condemnee's heirs with respect to the acquired property.

66 (6) If a condemnor puts acquired property to the public use for which the property was
67 acquired, the condemnor's obligation under Subsection (3) to offer to sell the acquired property
68 to the condemnee or the condemnee's heirs terminates, even if the acquired property is
69 subsequently put to a use other than the public use for which the property was acquired.

70 (7) A sale or transfer of acquired property that has not been put to the public use for
71 which the property was acquired is:

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

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

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

S.B. 83 3rd Sub. (Ivory) - Condemnation Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
