

Senator Lyle W. Hillyard proposes the following substitute bill:

EMINENT DOMAIN AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: _____

LONG TITLE

General Description:

This bill requires that a person exercising the right of eminent domain bear the burden of proof in an eminent domain action and requires a court to award a defendant to an eminent domain action costs if the defendant prevails in the action.

Highlighted Provisions:

This bill:

- ▶ requires that a person exercising the right of eminent domain bare the burden of proof in an eminent domain action;
- ▶ requires a court to award a defendant to an eminent domain action costs if the defendant prevails in the action; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-6-509, as renumbered and amended by Laws of Utah 2008, Chapter 3

1st Sub. S.B. 81



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

Section 1. Section **78B-6-509** is amended to read:

78B-6-509. Powers of court or judge -- Judicial review -- Attorney fees.

(1) The court shall have the power to:

~~[(1)]~~ (a) hear and determine all adverse or conflicting claims to the property sought to be condemned, and the damages; and

~~[(2)]~~ (b) determine the respective rights of different parties seeking condemnation of the same property.

(2) For an action brought under this part, a person filing a complaint described in Section 78B-6-507 shall have the burden to prove by a preponderance of the evidence that the person has:

(a) exercised the right of eminent domain for a use described in Section 78B-6-501;
and

(b) met the requirements, if applicable, set forth in Sections 78B-6-504 and 78B-6-505.

(3) If a defendant described in Subsection 78B-6-507(1)(b) prevails in an action brought under this part, the court shall award the defendant costs, including reasonable attorney fees.