

1 **Transportation Condemnation Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brady Brammer**

House Sponsor:

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3 **LONG TITLE**

4 **General Description:**

5 This bill provides certain requirements that the Department of Transportation is required to  
6 meet when exercising eminent domain powers.

7 **Highlighted Provisions:**

8 This bill:

- 9 ▶ defines terms related to eminent domain;  
10 ▶ requires the Department of Transportation (department) to meet certain requirements  
11 when exercising eminent domain powers, including:

- 12 • identification of the rights and interests being acquired, including the value assigned to  
13 each right or interest;  
14 • limiting the department's ability to construct an improvement that interferes with the  
15 visibility of the owner for a certain time period;  
16 • requiring just compensation before the department may obtain real property; and  
17 • requiring written certification acknowledged by the condemnee indicating that each  
18 interest acquired has been assigned a separate value; and  
19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **72-5-103**, as last amended by Laws of Utah 2001, Chapter 79

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

29 Section 1. Section **72-5-103** is amended to read:

30 **72-5-103 . Acquisition of rights-of-way and other real property -- Title to**

31 **property acquired.**

32 (1) As used in this section:

33 (a) "Acquired property" means the same as that term is defined in Section 78B-6-520.3.

34 (b) "Acquisition price" means the same as that term is defined in Section 78B-6-520.3.

35 (c) "Claimant" means the same as that term is defined in Section 78B-6-505.

36 (d) "Condemnee" means the same as that term is defined in Section 78B-6-520.3.

37 (e) "Condemnor" means the same as that term is defined in Section 78B-6-520.3.

38 (f) "Fee simple owner" means the same as that term is defined in Section 78B-6-505.

39 (g) "Under threat of condemnation" means the same as that term is defined in Section  
 40 78B-6-520.3.

41 ~~[(1)]~~ (2) The department may acquire any real property or interests in real property  
 42 necessary for temporary, present, or reasonable future state transportation purposes by  
 43 gift, agreement, exchange, purchase, condemnation, or otherwise.

44 ~~[(2)]~~ (3)(a)(i) Title to real property acquired by the department or the counties, cities,  
 45 and towns by gift, agreement, exchange, purchase, condemnation, or otherwise for  
 46 highway rights-of-way or other transportation purposes may be in fee simple or  
 47 any lesser estate or interest.

48 (ii) Title to real property acquired by the department for a public transit project shall  
 49 be transferred to the public transit district responsible for the project.

50 (iii) A public transit district shall cover all costs associated with any condemnation on  
 51 its behalf.

52 (b) The acquisition by the department of any real property or interests in real property  
 53 through condemnation or under threat of condemnation shall comply with the  
 54 following requirements:

55 (i) the instrument conveying title to real property to the department:

56 (A) shall identify the estate, rights, and interests to be acquired by the department;

57 and

58 (B) may not require the waiver of or conveyance of any real property interests or  
 59 rights, including covenants or restrictions for the benefit of the department, not  
 60 identified and valued separately in a written notice of condemnation, offer of  
 61 compensation, and appraisal delivered by the department;

62 (ii) for a period of 10 years from the date that the department acquires real property  
 63 adjoining highway rights-of-way or other transportation acquisitions, the  
 64 department may not erect or allow to be erected an improvement materially

65 interfering with the right to visibility of the remaining property of the condemnee  
66 adjoining the property acquired by the department without the department first  
67 acquiring through subsequent gift, agreement, exchange, purchase, or  
68 condemnation the right to visibility;

69 (iii) the department may not obtain title to real property under Title 78B, Chapter 6,  
70 Part 5, Eminent Domain, unless the fee simple owner or claimant receives  
71 compensation and damages for each of the estates, rights, and interests specified  
72 in the instrument conveying title to the department; and

73 (iv) any instrument in favor of the department purporting to convey to or create an  
74 interest in real property that does not include a written certification by the  
75 department and acknowledged by the condemnee or grantor under threat of  
76 condemnation that each acquired real property estate, rights, or interests conveyed  
77 or created have been separately valued, negotiated, and agreed to is voidable by  
78 the condemnee or grantor under threat of condemnation.

79 ~~[(b)]~~ (c) If the highway is a county road, city street under joint title as provided in  
80 Subsection 72-3-104(3), or right-of-way described in ~~[Title 72, Chapter 5, Part 3,~~  
81 ~~Rights-Of-Way Across Federal Lands Act]~~ Part 3, Rights-Of-Way Across Federal  
82 Lands Act, title to all interests in real property less than fee simple held under this  
83 section is held jointly by the state and the county, city, or town holding the interest.

84 ~~[(3)]~~ (4) A transfer of land bounded by a highway on a right-of-way for which the public has  
85 only an easement passes the title of the person whose estate is transferred to the middle  
86 of the highway.

87 Section 2. **Effective Date.**

88 This bill takes effect on May 7, 2025.