

**MITIGATION OF DAMAGES IN  
CONDEMNATION PROCEEDINGS**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: Greg J. Curtis**

**This act modifies provisions of the Judicial Code relating to eminent domain. The act requires a judge or jury to consider actions taken to mitigate damages when determining the amount of any compensation or damages awarded to a property owner in a condemnation case.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**78-34-11**, as last amended by Chapter 20, Laws of Utah 1995

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

Section 1. Section **78-34-11** is amended to read:

**78-34-11. When right to damages deemed to have accrued.**

(1) For the purpose of assessing compensation and damages, the right thereto shall be deemed to have accrued at the date of the service of summons, and its actual value at that date shall be the measure of compensation for all property to be actually taken, and the basis of damages to property not actually taken, but injuriously affected, in all cases where such damages are allowed, as provided in Section 78-34-10. [~~No improvements~~]

(2) The court or the jury shall consider mitigation or reduction of damages in its assessment of compensation and damages if, after the date of the service of summons, the plaintiff:

(a) mitigates the damages to the property; or

(b) reduces the amount of property actually taken.

(3) Improvements put upon the property by the property owner subsequent to the date of service of summons shall not be included in the assessment of compensation or damages.