

Senator Dennis E. Stowell proposes the following substitute bill:

CONDEMNATION AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dennis E. Stowell

House Sponsor: _____

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 commence an action to set aside the condemnation acquisition if the property has not been used for the purpose for which it was acquired; and

▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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



26 **78B-6-520. Action to set aside condemnation for failure to commence or complete**
27 **construction within reasonable time.**

28 ~~[(1) In an action to condemn property, if the court makes a finding of what is a~~
29 ~~reasonable time for commencement of construction and use of all the property sought to be~~
30 ~~condemned and the construction and use is not accomplished within the time specified, the]~~

31 (1) As used in this section:

32 (a) "Condemnation acquisition" means:

33 (i) for property acquired by a judgment entered in a condemnation action, the

34 acquisition of property under that judgment; and

35 (ii) for property acquired under threat of condemnation, the acquisition of property

36 under a transaction entered into under threat of condemnation.

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

38 (c) "Condemnor" includes a person who acquires property by purchase from a

39 condemnee under threat of condemnation.

40 (2) (a) A condemnee may file an action against the condemnor to set aside the
41 condemnation [of the entire parcel or any portion upon which construction and use was to have
42 taken place.] acquisition if:

43 (i) (A) the court, in an action to condemn the property, makes a finding of what is a
44 reasonable time for the commencement of construction and use of all the property sought to be
45 condemned; and

46 (B) the construction and use are not accomplished within the time specified; or

47 (ii) for property acquired under the threat of eminent domain, the property acquired is
48 not used for the purpose for which it was acquired.

49 (b) In an action under Subsection (2)(a)(i), the condemnee may seek to have the

50 condemnation acquisition set aside as to the entire parcel or any portion upon which

51 construction and use was to have taken place.

52 ~~[(2)]~~ (3) In the action, if the court finds that the condemnor, without reasonable
53 justification, did not commence or complete construction and use within the time specified or,
54 in the case of an action under Subsection (2)(a)(ii), did not use the property for the purpose for
55 which it was acquired, it shall enter judgment fixing the amount the condemnor has paid the
56 condemnee, as a result of the condemnation acquisition and all amounts due the condemnee as

57 damages sustained by reason of condemnation acquisition, including damages resulting from
58 partial completion of the contemplated use, plus all reasonable and necessary expenses actually
59 incurred by the condemnee including attorney fees.

60 [~~(3)~~] (4) If amounts due the condemnee under Subsection [~~(2)~~] (3) exceed amounts
61 paid by the condemnor, or these amounts are equal, judgment shall be entered in favor of the
62 condemnee, which judgment shall describe the property condemned and award judgment for
63 any amounts due condemnee. A copy of the judgment shall be filed in the office of the county
64 recorder of the county, and the property described in the judgment shall vest in the condemnee.

65 [~~(4)~~] (5) If amounts paid by the condemnor under Subsection [~~(2)~~] (3) exceed amounts
66 due the condemnee, judgment shall be entered describing the property condemned and giving
67 the condemnee 60 days from the date of the judgment to pay the difference between the
68 amounts to the condemnor. If payment is made, the court shall amend the judgment to reflect
69 the payment and order the amended judgment filed with the office of the county recorder of the
70 county, and the property described in the judgment shall vest in the condemnee. If payment is
71 not made, the court shall amend the judgment to reflect nonpayment and order the amended
72 judgment filed with the county recorder.