

BILLBOARD AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Francis D. Gibson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to billboards in municipalities and counties.

Highlighted Provisions:

This bill:

▶ amends provisions related to a municipality or a county's acquisition of a billboard and associated rights through eminent domain;

▶ permits a municipality or county to require a billboard owner to remove a billboard under certain conditions; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-511, as last amended by Laws of Utah 2015, Chapter 205

10-9a-512, as renumbered and amended by Laws of Utah 2005, Chapter 254

10-9a-513, as last amended by Laws of Utah 2009, Chapters 170 and 233

17-27a-510, as last amended by Laws of Utah 2009, Chapter 170

17-27a-511, as renumbered and amended by Laws of Utah 2005, Chapter 254



28 **17-27a-512**, as last amended by Laws of Utah 2014, Chapter 189



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

31 Section 1. Section **10-9a-511** is amended to read:

32 **10-9a-511. Nonconforming uses and noncomplying structures.**

33 (1) (a) Except as provided in this section, a nonconforming use or noncomplying
34 structure may be continued by the present or a future property owner.

35 (b) A nonconforming use may be extended through the same building, provided no
36 structural alteration of the building is proposed or made for the purpose of the extension.

37 (c) For purposes of this Subsection (1), the addition of a solar energy device to a
38 building is not a structural alteration.

39 (2) The legislative body may provide for:

40 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or
41 substitution of nonconforming uses upon the terms and conditions set forth in the land use
42 ordinance;

43 (b) the termination of all nonconforming uses, except billboards, by providing a
44 formula establishing a reasonable time period during which the owner can recover or amortize
45 the amount of his investment in the nonconforming use, if any; and

46 (c) the termination of a nonconforming use due to its abandonment.

47 (3) (a) A municipality may not prohibit the reconstruction or restoration of a
48 noncomplying structure or terminate the nonconforming use of a structure that is involuntarily
49 destroyed in whole or in part due to fire or other calamity unless the structure or use has been
50 abandoned.

51 (b) A municipality may prohibit the reconstruction or restoration of a noncomplying
52 structure or terminate the nonconforming use of a structure if:

53 (i) the structure is allowed to deteriorate to a condition that the structure is rendered
54 uninhabitable and is not repaired or restored within six months after the day on which written
55 notice is served to the property owner that the structure is uninhabitable and that the
56 noncomplying structure or nonconforming use will be lost if the structure is not repaired or
57 restored within six months; or

58 (ii) the property owner has voluntarily demolished a majority of the noncomplying

59 structure or the building that houses the nonconforming use.

60 (c) (i) Notwithstanding a prohibition in [its] the municipality's zoning ordinance, a
61 municipality may permit a billboard owner to relocate the billboard within the municipality's
62 boundaries to a location that is mutually acceptable to the municipality and the billboard
63 owner.

64 (ii) If the municipality and billboard owner cannot agree to a mutually acceptable
65 location within 90 days after the day on which the owner submits a written request to relocate
66 the billboard, [~~the provisions of Subsection 10-9a-513(2)(a)(iv) apply~~] the billboard owner may
67 relocate the billboard in accordance with Subsection 10-9a-513(2).

68 (4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of
69 legal existence for nonconforming uses, the property owner shall have the burden of
70 establishing the legal existence of a noncomplying structure or nonconforming use.

71 (b) Any party claiming that a nonconforming use has been abandoned shall have the
72 burden of establishing the abandonment.

73 (c) Abandonment may be presumed to have occurred if:

74 (i) a majority of the primary structure associated with the nonconforming use has been
75 voluntarily demolished without prior written agreement with the municipality regarding an
76 extension of the nonconforming use;

77 (ii) the use has been discontinued for a minimum of one year; or

78 (iii) the primary structure associated with the nonconforming use remains vacant for a
79 period of one year.

80 (d) The property owner may rebut the presumption of abandonment under Subsection
81 (4)(c), and [~~shall have~~] has the burden of establishing that any claimed abandonment under
82 Subsection (4)(b) has not [~~in fact~~] occurred.

83 (5) A municipality may terminate the nonconforming status of a school district or
84 charter school use or structure when the property associated with the school district or charter
85 school use or structure ceases to be used for school district or charter school purposes for a
86 period established by ordinance.

87 Section 2. Section **10-9a-512** is amended to read:

88 **10-9a-512. Termination of a billboard and associated rights.**

89 (1) A municipality may only require termination of a billboard and associated

90 [property] rights through:

- 91 (a) gift;
- 92 (b) purchase;
- 93 (c) agreement;
- 94 (d) exchange; or
- 95 (e) eminent domain.

96 (2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent
97 of the billboard owner.

98 (3) A termination under Subsection (1)(e) requires the municipality to:

99 (a) acquire the billboard and associated rights through eminent domain, in accordance
100 with Title 78B, Chapter 6, Part 5, Eminent Domain; and

101 (b) after acquiring the rights under Subsection (3)(a), terminate the billboard and
102 associated rights.

103 Section 3. Section **10-9a-513** is amended to read:

104 **10-9a-513. Municipality's acquisition of billboard by eminent domain -- Removal**
105 **without providing compensation -- Limit on allowing nonconforming billboards to be**
106 **rebuilt or replaced -- Validity of municipal permit after issuance of state permit.**

107 (1) As used in this section:

108 (a) "Clearly visible" means capable of being read without obstruction by an occupant of
109 a vehicle traveling on a street or highway within the visibility area.

110 (b) "Highest allowable height" means:

111 (i) if the height allowed by the municipality, by ordinance or consent, is higher than the
112 height under Subsection (1)(b)(ii), the height allowed by the municipality; or

113 (ii) (A) for a noninterstate billboard:

114 (I) if the height of the previous use or structure is 45 feet or higher, the height of the
115 previous use or structure; or

116 (II) if the height of the previous use or structure is less than 45 feet, the height of the
117 previous use or structure or the height to make the entire advertising content of the billboard
118 clearly visible, whichever is higher, but no higher than 45 feet; and

119 (B) for an interstate billboard:

120 (I) if the height of the previous use or structure is at or above the interstate height, the

121 height of the previous use or structure; or

122 (II) if the height of the previous use or structure is less than the interstate height, the
123 height of the previous use or structure or the height to make the entire advertising content of
124 the billboard clearly visible, whichever is higher, but no higher than the interstate height.

125 (c) "Interstate billboard" means a billboard that is intended to be viewed from a
126 highway that is an interstate.

127 (d) "Interstate height" means a height that is the higher of:

128 (i) 65 feet above the ground; and

129 (ii) 25 feet above the grade of the interstate.

130 (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a
131 street or highway that is not an interstate.

132 (f) "Visibility area" means the area on a street or highway that is:

133 (i) defined at one end by a line extending from the base of the billboard across all lanes
134 of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

135 (ii) defined on the other end by a line extending across all lanes of traffic of the street
136 or highway in a plane that is:

137 (A) perpendicular to the street or highway; and

138 (B) (I) for an interstate billboard, 500 feet from the base of the billboard; or

139 (II) for a noninterstate billboard, 300 feet from the base of the billboard.

140 ~~[(2) (a) A municipality is considered to have initiated the acquisition of a billboard
141 structure by eminent domain if the municipality prevents a billboard owner from:]~~

142 (2) (a) If a billboard owner makes a written request to the municipality with
143 jurisdiction over the billboard to take an action described in Subsection (2)(b), the billboard
144 owner may take the requested action, without further municipal approval, 90 days after the day
145 on which the billboard owner makes the written request, unless within the 90-day period the
146 municipality:

147 (i) in an attempt to acquire the billboard and associated rights through eminent domain
148 under Section [10-9a-512](#) for the purpose of terminating the billboard and associated rights:

149 (A) completes the procedural steps required under Title 78B, Chapter 6, Part 5,
150 Eminent Domain, before the filing of an eminent domain action; and

151 (B) files an eminent domain action in accordance with Title 78B, Chapter 6, Part 5,

152 Eminent Domain;

153 (ii) denies the request in accordance with Subsection (2)(d); or

154 (iii) requires the billboard owner to remove the billboard in accordance with

155 Subsection (3).

156 (b) Subject to Subsection (2)(a), a billboard owner may:

157 (i) [~~rebuilding, maintaining, repairing, or restoring~~] rebuild, maintain, repair, or restore
158 a billboard structure that is damaged by casualty, an act of God, or vandalism;

159 (ii) [~~except as provided in Subsection (2)(c), relocating or rebuilding~~] relocate or
160 rebuild a billboard structure, or [~~taking other measures~~] take another measure, to correct a
161 mistake in the placement or erection of a billboard for which the municipality [~~has~~] issued a
162 permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of
163 that permit;

164 (iii) [~~structurally modifying or upgrading~~] modify or upgrade a billboard;

165 (iv) [~~relocating~~] relocate a billboard into any commercial, industrial, or manufacturing
166 zone within the municipality's boundaries, if [~~:(A)~~] the relocated billboard is:

167 [~~(F)~~] (A) within 5,280 feet of [~~its~~] the billboard's previous location; and

168 [~~(H)~~] (B) no closer than [~~:(Aa)~~] 300 feet from an off-premise sign existing on the same
169 side of the street or highway[;], or [~~(Bb)~~] if the street or highway is an interstate or limited
170 access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the
171 distance allowed under that act between the relocated billboard and an off-premise sign
172 existing on the same side of the interstate or limited access highway; [~~and~~]

173 [~~(B)~~] (F) ~~the billboard owner has submitted a written request under Subsection~~
174 ~~10-9a-511(3)(c); and~~

175 [~~(H)~~] ~~the municipality and billboard owner are unable to agree, within the time provided~~
176 ~~in Subsection 10-9a-511(3)(c), to a mutually acceptable location; or~~

177 (v) [~~making~~] make one or more of the following modifications, as the billboard owner
178 determines, to a billboard that is [~~structurally modified or upgraded under Subsection (2)(a)(iii)~~
179 ~~or relocated under Subsection (2)(a)(iv)] altered by modification or upgrade under Subsection~~
180 (2)(b)(iii), by relocation under Subsection (2)(b)(iv), by relocation under Subsection
181 72-7-510.5(1)(b), by adjustment under Subsection 72-7-510.5(1)(a), or by any combination of
182 these alterations:

183 (A) ~~erecting~~ erect the billboard:
 184 (I) to the highest allowable height; and
 185 (II) as the owner determines, to an angle that makes the entire advertising content of
 186 the billboard clearly visible; ~~and~~ or

187 (B) ~~installing~~ install a sign face on the billboard that is at least the same size as, but
 188 no larger than, the sign face on the billboard before ~~its~~ the billboard's relocation~~[-]; or~~
 189 (vi) exercise a billboard owner's right under Title 72, Chapter 7, Part 5, Utah Outdoor
 190 Advertising Act.

191 ~~(b)~~ (c) A modification under Subsection (2)~~(a)~~(b)(v) shall comply with Title 72,
 192 Chapter 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

193 ~~(e)~~ (d) A ~~municipality's denial of~~ municipality may deny a billboard owner's request
 194 to relocate or rebuild a billboard ~~structure~~, or to take other measures, in order to correct a
 195 mistake in the placement or erection of a billboard ~~[does not constitute the initiation of~~
 196 ~~acquisition by eminent domain under Subsection (2)(a)]~~ without acquiring the billboard and
 197 associated rights through eminent domain under Section 10-9a-512, if the mistake in placement
 198 or erection of the billboard is determined by clear and convincing evidence, in a proceeding
 199 that protects the billboard owner's due process rights, to have resulted from an intentionally
 200 false or misleading statement:

201 (i) by the billboard applicant in the application; and
 202 (ii) regarding the placement or erection of the billboard.

203 ~~(d) If a municipality is considered to have initiated the acquisition of a billboard~~
 204 ~~structure by eminent domain under Subsection (2)(a) or any other provision of applicable law,~~
 205 ~~the municipality]~~

206 (e) A municipality that acquires a billboard and associated rights through eminent
 207 domain under Section 10-9a-512 shall pay just compensation to the billboard owner in an
 208 amount that is:

209 (i) the value of the existing billboard at a fair market capitalization rate, based on
 210 actual annual revenue, less any annual rent expense;

211 (ii) the value of any other right associated with the billboard ~~[structure that is~~
 212 ~~acquired]~~;

213 (iii) the cost of the sign structure; and

214 (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the
215 billboard owner's interest is a part.

216 (3) Notwithstanding [~~Subsection (2) and~~] Section 10-9a-512, a municipality may
217 [~~remove a billboard without providing compensation if~~] require the owner of a billboard to
218 remove the billboard without acquiring the billboard and associated rights through eminent
219 domain if:

220 (a) the municipality determines:

221 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
222 false or misleading statement in the applicant's application regarding the placement or erection
223 of the billboard; or

224 (ii) by substantial evidence that the billboard:

225 (A) is structurally unsafe;

226 (B) is in an unreasonable state of repair; or

227 (C) has been abandoned for at least 12 months;

228 (b) the municipality notifies the billboard owner in writing that the billboard owner's
229 billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);

230 (c) the billboard owner fails to remedy the condition or conditions within:

231 (i) [~~except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's~~
232 ~~receipt of~~] 90 days after the day on which the billboard owner receives written notice under
233 Subsection (3)(b); or

234 (ii) if the condition forming the basis of the municipality's intention to remove the
235 billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary
236 because of a natural disaster, [~~following the~~] after the day on which the billboard [~~owner's~~
237 ~~receipt of~~] owner receives written notice under Subsection (3)(b); and

238 (d) following the expiration of the applicable period under Subsection (3)(c) and after
239 providing the billboard owner with reasonable notice of proceedings and an opportunity for a
240 hearing, the municipality finds:

241 (i) by clear and convincing evidence, that the applicant for a permit intentionally made
242 a false or misleading statement in the application regarding the placement or erection of the
243 billboard; or

244 (ii) by substantial evidence that the billboard is structurally unsafe, is in an

245 unreasonable state of repair, or has been abandoned for at least 12 months.

246 (4) A municipality may not allow a nonconforming billboard to be rebuilt or replaced:

247 (a) by anyone other than ~~[its]~~ the billboard's owner or the billboard's owner acting
248 through ~~[its contractors:]~~ a contractor; or

249 (b) within 500 feet of the nonconforming location.

250 (5) A permit ~~[issued, extended, or renewed by a municipality]~~ that a municipality
251 issues, extends, or renews for a billboard remains valid ~~[from the time]~~ beginning on the day on
252 which the municipality issues, extends, or renews the permit ~~[until]~~ and ending 180 days after
253 the day on which a required state permit is issued for the billboard if:

254 (a) the billboard requires a state permit; and

255 (b) an application for the state permit is filed within 30 days after the day on which the
256 municipality issues, extends, or renews a permit for the billboard.

257 Section 4. Section **17-27a-510** is amended to read:

258 **17-27a-510. Nonconforming uses and noncomplying structures.**

259 (1) (a) Except as provided in this section, a nonconforming use or a noncomplying
260 structure may be continued by the present or a future property owner.

261 (b) A nonconforming use may be extended through the same building, provided no
262 structural alteration of the building is proposed or made for the purpose of the extension.

263 (c) For purposes of this Subsection (1), the addition of a solar energy device to a
264 building is not a structural alteration.

265 (2) The legislative body may provide for:

266 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or
267 substitution of nonconforming uses upon the terms and conditions set forth in the land use
268 ordinance;

269 (b) the termination of all nonconforming uses, except billboards, by providing a
270 formula establishing a reasonable time period during which the owner can recover or amortize
271 the amount of his investment in the nonconforming use, if any; and

272 (c) the termination of a nonconforming use due to its abandonment.

273 (3) (a) A county may not prohibit the reconstruction or restoration of a noncomplying
274 structure or terminate the nonconforming use of a structure that is involuntarily destroyed in
275 whole or in part due to fire or other calamity unless the structure or use has been abandoned.

276 (b) A county may prohibit the reconstruction or restoration of a noncomplying structure
277 or terminate the nonconforming use of a structure if:

278 (i) the structure is allowed to deteriorate to a condition that the structure is rendered
279 uninhabitable and is not repaired or restored within six months after the day on which written
280 notice is served to the property owner that the structure is uninhabitable and that the
281 noncomplying structure or nonconforming use will be lost if the structure is not repaired or
282 restored within six months; or

283 (ii) the property owner has voluntarily demolished a majority of the noncomplying
284 structure or the building that houses the nonconforming use.

285 (c) (i) Notwithstanding a prohibition in [~~its~~] the county's zoning ordinance, a county
286 may permit a billboard owner to relocate the billboard within the county's unincorporated area
287 to a location that is mutually acceptable to the county and the billboard owner.

288 (ii) If the county and billboard owner cannot agree to a mutually acceptable location
289 within 90 days after the day on which the owner submits a written request to relocate the
290 billboard, [~~the provisions of Subsection 17-27a-512(2)(a)(iv) apply~~] the billboard owner may
291 relocate the billboard in accordance with Subsection 17-27a-512(2).

292 (4) (a) Unless the county establishes, by ordinance, a uniform presumption of legal
293 existence for nonconforming uses, the property owner shall have the burden of establishing the
294 legal existence of a noncomplying structure or nonconforming use.

295 (b) Any party claiming that a nonconforming use has been abandoned shall have the
296 burden of establishing the abandonment.

297 (c) Abandonment may be presumed to have occurred if:

298 (i) a majority of the primary structure associated with the nonconforming use has been
299 voluntarily demolished without prior written agreement with the county regarding an extension
300 of the nonconforming use;

301 (ii) the use has been discontinued for a minimum of one year; or

302 (iii) the primary structure associated with the nonconforming use remains vacant for a
303 period of one year.

304 (d) The property owner may rebut the presumption of abandonment under Subsection
305 (4)(c), and [~~shall have~~] has the burden of establishing that any claimed abandonment under
306 Subsection (4)(c) has not [~~in fact~~] occurred.

307 (5) A county may terminate the nonconforming status of a school district or charter
308 school use or structure when the property associated with the school district or charter school
309 use or structure ceases to be used for school district or charter school purposes for a period
310 established by ordinance.

311 Section 5. Section 17-27a-511 is amended to read:

312 **17-27a-511. Termination of a billboard and associated rights.**

313 (1) A county may only require termination of a billboard and associated [property]
314 rights through:

- 315 (a) gift;
- 316 (b) purchase;
- 317 (c) agreement;
- 318 (d) exchange; or
- 319 (e) eminent domain.

320 (2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent
321 of the billboard owner.

322 (3) A termination under Subsection (1)(e) requires the county to:

- 323 (a) acquire the billboard and associated rights through eminent domain, in accordance
324 with Title 78B, Chapter 6, Part 5, Eminent Domain; and
- 325 (b) after acquiring the rights under Subsection (3)(a), terminate the billboard and
326 associated rights.

327 Section 6. Section 17-27a-512 is amended to read:

328 **17-27a-512. County's acquisition of billboard by eminent domain -- Removal**
329 **without providing compensation -- Limit on allowing nonconforming billboard to be**
330 **rebuilt or replaced -- Validity of county permit after issuance of state permit.**

331 (1) As used in this section:

- 332 (a) "Clearly visible" means capable of being read without obstruction by an occupant of
333 a vehicle traveling on a street or highway within the visibility area.
- 334 (b) "Highest allowable height" means:
 - 335 (i) if the height allowed by the county, by ordinance or consent, is higher than the
336 height under Subsection (1)(b)(ii), the height allowed by the county; or
 - 337 (ii) (A) for a noninterstate billboard:

338 (I) if the height of the previous use or structure is 45 feet or higher, the height of the
339 previous use or structure; or

340 (II) if the height of the previous use or structure is less than 45 feet, the height of the
341 previous use or structure or the height to make the entire advertising content of the billboard
342 clearly visible, whichever is higher, but no higher than 45 feet; and

343 (B) for an interstate billboard:

344 (I) if the height of the previous use or structure is at or above the interstate height, the
345 height of the previous use or structure; or

346 (II) if the height of the previous use or structure is less than the interstate height, the
347 height of the previous use or structure or the height to make the entire advertising content of
348 the billboard clearly visible, whichever is higher, but no higher than the interstate height.

349 (c) "Interstate billboard" means a billboard that is intended to be viewed from a
350 highway that is an interstate.

351 (d) "Interstate height" means a height that is the higher of:

352 (i) 65 feet above the ground; and

353 (ii) 25 feet above the grade of the interstate.

354 (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a
355 street or highway that is not an interstate.

356 (f) "Visibility area" means the area on a street or highway that is:

357 (i) defined at one end by a line extending from the base of the billboard across all lanes
358 of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

359 (ii) defined on the other end by a line extending across all lanes of traffic of the street
360 or highway in a plane that is:

361 (A) perpendicular to the street or highway; and

362 (B) (I) for an interstate billboard, 500 feet from the base of the billboard; or

363 (II) for a noninterstate billboard, 300 feet from the base of the billboard.

364 ~~[(2) (a) A county is considered to have initiated the acquisition of a billboard structure~~
365 ~~by eminent domain if the county prevents a billboard owner from:]~~

366 (2) (a) If a billboard owner makes a written request to the county with jurisdiction over
367 the billboard to take an action described in Subsection (2)(b), the billboard owner may take the
368 requested action, without further county approval, 90 days after the day on which the billboard

369 owner makes the written request, unless within the 90-day period the county:

370 (i) in an attempt to acquire the billboard and associated rights through eminent domain
 371 under Section 17-27a-511 for the purpose of terminating the billboard and associated rights:

372 (A) completes the procedural steps required under Title 78B, Chapter 6, Part 5,

373 Eminent Domain, before the filing of an eminent domain action; and

374 (B) files an eminent domain action in accordance with Title 78B, Chapter 6, Part 5,

375 Eminent Domain;

376 (ii) denies the request in accordance with Subsection (2)(d); or

377 (iii) requires the billboard owner to remove the billboard in accordance with

378 Subsection (3).

379 (b) Subject to Subsection (2)(a), a billboard owner may:

380 (i) [~~rebuilding, maintaining, repairing, or restoring~~] rebuild, maintain, repair, or restore
 381 a billboard structure that is damaged by casualty, an act of God, or vandalism;

382 (ii) except as provided in Subsection (2)(c), [~~relocating or rebuilding~~] relocate or
 383 rebuild a billboard structure, or [~~taking other measures~~] take another measure, to correct a
 384 mistake in the placement or erection of a billboard for which the county [~~has~~] issued a permit,
 385 if the proposed relocation, rebuilding, or other measure is consistent with the intent of that
 386 permit;

387 (iii) [~~structurally modifying or upgrading~~] modify or upgrade a billboard;

388 (iv) [~~relocating~~] relocate a billboard into any commercial, industrial, or manufacturing
 389 zone within the unincorporated area of the county, if[~~-(A)~~] the relocated billboard is:

390 [~~(H)~~] (A) within 5,280 feet of [~~its~~] the billboard's previous location; and

391 [~~(H)~~] (B) no closer than[~~-(Aa)~~] 300 feet from an off-premise sign existing on the same
 392 side of the street or highway[~~;~~], or [~~(Bb)~~] if the street or highway is an interstate or limited
 393 access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the
 394 distance allowed under that act between the relocated billboard and an off-premise sign
 395 existing on the same side of the interstate or limited access highway; [~~and~~]

396 [~~(B)~~] (F) ~~the billboard owner has submitted a written request under Subsection~~
 397 ~~17-27a-510(3)(c); and~~

398 [~~(H)~~] ~~the county and billboard owner are unable to agree, within the time provided in~~
 399 ~~Subsection 17-27a-510(3)(c), to a mutually acceptable location; or]~~

400 (v) ~~[making]~~ make one or more of the following modifications, as the billboard owner
 401 determines, to a billboard that is ~~[structurally modified or upgraded under Subsection (2)(a)(iii)~~
 402 ~~or relocated under Subsection (2)(a)(iv)]~~ altered by modification or upgrade under Subsection
 403 (2)(b)(iii), by relocation under Subsection (2)(b)(iv), by relocation under Subsection
 404 72-7-510.5(1)(b), by adjustment under Subsection 72-7-510.5(1)(a), or by any combination of
 405 these alterations:

406 (A) ~~[erecting]~~ erect the billboard:

407 (I) to the highest allowable height; and

408 (II) as the owner determines, to an angle that makes the entire advertising content of
 409 the billboard clearly visible; ~~[and]~~ or

410 (B) ~~[installing]~~ install a sign face on the billboard that is at least the same size as, but
 411 no larger than, the sign face on the billboard before ~~[its]~~ the billboard's relocation~~[-]; or~~

412 (vi) exercise a billboard owner's right under Title 72, Chapter 7, Part 5, Utah Outdoor
 413 Advertising Act.

414 ~~[(b)]~~ (c) A modification under Subsection (2)~~[(a)]~~(b)(v) shall comply with Title 72,
 415 Chapter 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

416 ~~[(e)]~~ (d) A ~~[county's denial of]~~ county may deny a billboard owner's request to relocate
 417 or rebuild a billboard ~~[structure]~~, or to take other measures, in order to correct a mistake in the
 418 placement or erection of a billboard ~~[does not constitute the initiation of acquisition by eminent~~
 419 ~~domain under Subsection (2)(a)]~~ without acquiring the billboard and associated rights through
 420 eminent domain under Section 17-27a-511, if the mistake in placement or erection of the
 421 billboard is determined by clear and convincing evidence, in a proceeding that protects the
 422 billboard owner's due process rights, to have resulted from an intentionally false or misleading
 423 statement:

424 (i) by the billboard applicant in the application; and

425 (ii) regarding the placement or erection of the billboard.

426 ~~[(d) If a county is considered to have initiated the acquisition of a billboard structure by~~
 427 ~~eminent domain under Subsection (1)(a) or any other provision of applicable law, the county]~~

428 (e) A county that acquires a billboard and associated rights through eminent domain
 429 under Section 17-27a-511 shall pay just compensation to the billboard owner in an amount that
 430 is:

- 431 (i) the value of the existing billboard at a fair market capitalization rate, based on
432 actual annual revenue, less any annual rent expense;
- 433 (ii) the value of any other right associated with the billboard [~~structure that is~~
434 ~~acquired~~];
- 435 (iii) the cost of the sign structure; and
- 436 (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the
437 billboard owner's interest is a part.

438 (3) Notwithstanding [~~Subsection (2) and~~] Section 17-27a-511, a county may [~~remove a~~
439 ~~billboard without providing compensation if~~] require an owner of a billboard to remove the
440 billboard without acquiring a billboard and associated rights through eminent domain if:

441 (a) the county determines:

442 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
443 false or misleading statement in the applicant's application regarding the placement or erection
444 of the billboard; or

445 (ii) by substantial evidence that the billboard:

446 (A) is structurally unsafe;

447 (B) is in an unreasonable state of repair; or

448 (C) has been abandoned for at least 12 months;

449 (b) the county notifies the billboard owner in writing that the billboard owner's
450 billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);

451 (c) the billboard owner fails to remedy the condition or conditions within:

452 (i) [~~except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's~~
453 ~~receipt of~~] 90 days after the day on which the billboard owner receives written notice under
454 Subsection (3)(b); or

455 (ii) if the condition forming the basis of the county's intention to remove the billboard
456 is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a
457 natural disaster, [~~following the~~] after the day on which the billboard [~~owner's receipt of~~] owner
458 receives written notice under Subsection (3)(b); and

459 (d) following the expiration of the applicable period under Subsection (3)(c) and after
460 providing the billboard owner with reasonable notice of proceedings and an opportunity for a
461 hearing, the county finds:

462 (i) by clear and convincing evidence, that the applicant for a permit intentionally made
463 a false or misleading statement in the application regarding the placement or erection of the
464 billboard; or

465 (ii) by substantial evidence that the billboard is structurally unsafe, is in an
466 unreasonable state of repair, or has been abandoned for at least 12 months.

467 (4) A county may not allow a nonconforming billboard to be rebuilt or replaced;

468 (a) by anyone other than ~~[its]~~ the billboard's owner or the billboard's owner acting
469 through ~~[its contractors:]~~ a contractor; or

470 (b) within 500 feet of the nonconforming location.

471 (5) A permit ~~[issued, extended, or renewed by a county]~~ that a county issues, extends,
472 or renews for a billboard remains valid ~~[from the time]~~ beginning on the day on which the
473 county issues, extends, or renews the permit [until] and ending 180 days after the day on which
474 a required state permit is issued for the billboard if:

475 (a) the billboard requires a state permit; and

476 (b) an application for the state permit is filed within 30 days after the day on which the
477 county issues, extends, or renews a permit for the billboard.

Legislative Review Note
Office of Legislative Research and General Counsel