

FIRST REGULAR SESSION

SENATE BILL NO. 61

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEAVENY.

Pre-filed December 17, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

0529S.02I

AN ACT

To repeal section 523.040, RSMo, and to enact in lieu thereof one new section relating to condemnation commissioners.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 523.040, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 523.040, to read as follows:

523.040. 1. The court, or judge thereof in vacation, on being satisfied that
2 due notice of the pendency of the petition has been given, shall appoint three
3 disinterested commissioners, who shall be residents of the county in which the
4 real estate or a part thereof is situated, **and in any city not within a county,**
5 **any county with a charter form of government and with more than one**
6 **million inhabitants, or any county with a charter form of government**
7 **and with more than six hundred thousand but fewer than seven**
8 **hundred thousand inhabitants at least two of the commissioners shall**
9 **be either a licensed real estate broker or a state-licensed or state-**
10 **certified real estate appraiser,** to assess the damages which the owners may
11 severally sustain by reason of such appropriation, who, within forty-five days
12 after appointment by the court, which forty-five days may be extended by the
13 court to a date certain with good cause shown, after applying the definition of fair
14 market value contained in subdivision (1) of section 523.001, and after having
15 viewed the property, shall return to the clerk of such court, under oath, their
16 report in duplicate of such assessment of damages, setting forth the amount of
17 damages allowed to the person or persons named as owning or claiming the tract
18 of land condemned, and should more than one tract be condemned in the petition,
19 then the damages allowed to the owner, owners, claimant or claimants of each
20 tract, respectively, shall be stated separately, together with a specific description

21 of the tracts for which such damages are assessed; and the clerk shall file one
22 copy of said report in his office and record the same in the order book of the court,
23 and he shall deliver the other copy, duly certified by him, to the recorder of deeds
24 of the county where the land lies (or to the recorder of deeds of the city of St.
25 Louis, if the land lies in said city) who shall record the same in his office, and
26 index each tract separately as provided in section 59.440, and the fee for so
27 recording shall be taxed by the clerk as costs in the proceedings; and thereupon
28 such company shall pay to the clerk the amount thus assessed for the party in
29 whose favor such damages have been assessed; and on making such payment it
30 shall be lawful for such company to hold the interest in the property so
31 appropriated for the uses prescribed in this section; and upon failure to pay the
32 assessment, the court may, upon motion and notice by the party entitled to such
33 damages, enforce the payment of the same by execution, unless the said company
34 shall, within ten days from the return of such assessment, elect to abandon the
35 proposed appropriation of any parcel of land, by an instrument in writing to that
36 effect, to be filed with the clerk of the court, and entered on the minutes of the
37 court, and as to so much as is thus abandoned, the assessment of damages shall
38 be void.

39 2. Prior to the issuance of any report under subsection 1 of this section,
40 a commissioner shall notify all parties named in the condemnation petition no
41 less than ten days prior to the commissioners' viewing of the property of the
42 named parties' opportunity to accompany the commissioners on the
43 commissioners' viewing of the property and of the named parties' opportunity to
44 present information to the commissioners.

45 3. The commissioners shall view the property, hear arguments, and review
46 other relevant information that may be offered by the parties.

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