

SENATE BILL NO. 1698

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

7286S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 523.001, 523.020, 523.030, 523.039, 523.040, 523.250, 523.253, 523.256, and 523.265, RSMo, and section 523.061 as enacted by house bill no. 1606, one hundred first general assembly, second regular session, and section 523.061 as enacted by house bill no. 1944, ninety-third general assembly, second regular session, and to enact in lieu thereof ten new sections relating to condemnation proceedings, with penalty provisions.

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

Section A. Sections 523.001, 523.020, 523.030, 523.039,
2 523.040, 523.250, 523.253, 523.256, and 523.265, RSMo, and
3 section 523.061 as enacted by house bill no. 1606, one hundred
4 first general assembly, second regular session, and section
5 523.061 as enacted by house bill no. 1944, ninety-third general
6 assembly, second regular session, are repealed and ten new
7 sections enacted in lieu thereof, to be known as sections
8 523.001, 523.015, 523.030, 523.039, 523.040, 523.061, 523.250,
9 523.253, 523.256, and 523.265, to read as follows:

523.001. For the purposes of this chapter, the
2 following terms shall mean:

3 (1) **"Beginning farmer or rancher", an individual or**
4 **entity who:**

5 (a) **Has not operated a farm or ranch, or who has**
6 **operated a farm or ranch for not more than ten consecutive**

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

7 years. The requirement of this paragraph applies to all
8 members of an entity;

9 (b) Participates in the operation of the farm or
10 ranch; and

11 (c) Is a resident of this state;

12 (2) "Beginning farmer taking", any taking of any
13 agricultural or horticultural property owned by a property
14 owner qualified as a beginning farmer or rancher;

15 (3) "Fair market value", the value of the property
16 taken after considering comparable sales in the area,
17 capitalization of income, and replacement cost less
18 depreciation, singularly or in combination, as appropriate,
19 and additionally considering the value of the property based
20 upon its highest and best use, using generally accepted
21 appraisal practices. If less than the entire property is
22 taken, fair market value shall mean the difference between
23 the fair market value of the entire property immediately
24 prior to the taking and the fair market value of the
25 remaining or burdened property immediately after the taking,
26 including consideration of the damage the condemning
27 authority's proposed use of the condemned property shall
28 cause to the remaining or burdened property if such proposed
29 use of the condemned property shall reduce the value of the
30 remaining or burdened property. The term "fair market
31 value" shall not include any increase in the value of the
32 remaining or burdened property caused by the condemning
33 authority's proposed use of the condemned property;

34 [(2)] (4) "Heritage value", the value assigned to any
35 real property, including but not limited to real property
36 owned by a business enterprise with fewer than one hundred
37 employees, that has been owned within the same family for

38 [fifty] **twenty** or more years, such value to be fifty percent
39 of fair market value;

40 [(3)] **(5)** "Homestead taking", any taking of a dwelling
41 owned by the property owner and functioning as the owner's
42 primary place of residence or any taking of the owner's
43 property within three hundred feet of the owner's primary
44 place of residence [that prevents the owner from utilizing
45 the property in substantially the same manner as it is
46 currently being utilized].

523.015. 1. Any corporation, political subdivision,
2 cooperative, or person with the authority to condemn
3 property pursuant to this chapter or any other provision of
4 law shall give the owner of any property at least fifteen
5 days written notice that surveyors employed by the
6 condemning corporation, political subdivision, cooperative,
7 or person will enter the property proposed to be condemned
8 for any surveying.

9 2. If any corporation, political subdivision,
10 cooperative, or person with the authority to condemn
11 property pursuant to this chapter or any other provision of
12 law acquires any easement in this state by voluntary means
13 or by condemnation, such corporation, political subdivision,
14 cooperative, or person shall give at least five days written
15 notice that such corporation, political subdivision,
16 cooperative, or person, or its agents or employees, will
17 enter upon the easement before entering such easement,
18 unless such corporation, political subdivision, cooperative,
19 or person has to enter onto such property in an emergency to
20 make repairs to avoid or remedy disruptions of utility
21 service, or to prevent any threat to the life or property of
22 any person.

23 3. If any corporation, political subdivision,
24 cooperative, or person with the authority to condemn
25 property pursuant to this chapter or any other provision of
26 law acquires any easement in this state by voluntary means
27 or by condemnation, and subsequently cuts or destroys any
28 trees or vegetation upon or within the easement, such
29 corporation, political subdivision, cooperative, or person
30 shall, at its own expense, entirely remove all such trees or
31 vegetation from the easement, unless otherwise agreed in
32 writing with the owner of the fee over which the easement
33 exists.

34 4. If any corporation, political subdivision,
35 cooperative, or person with the authority to condemn
36 property pursuant to this chapter or any other provision of
37 law acquires any easement in this state by voluntary means
38 or by condemnation, and subsequently cuts or destroys any
39 trees or vegetation upon or within the easement, such
40 corporation, political subdivision, cooperative, or person
41 shall, at its own expense, remove or grind all stumps in the
42 easement to at least three inches in depth below the ground
43 surface, unless otherwise agreed in writing with the owner
44 of the fee over which the easement exists.

45 5. If any corporation, political subdivision,
46 cooperative, or person with the authority to condemn
47 property pursuant to this chapter or any other provision of
48 law acquires any easement in this state by voluntary means
49 or by condemnation, and subsequently disturbs, causes damage
50 by equipment or machinery, or removes any tree, vegetation,
51 grass, earthwork, or terrace within the easement, or creates
52 or causes any ruts, such corporation, political subdivision,
53 cooperative, or person shall, at its own expense, repair and
54 reseed any barren area utilizing best practices for erosion

55 control as set forth by the Missouri soil and water
56 commission, unless otherwise agreed in writing with the
57 owner of the fee over which the easement exists.

58 6. If any corporation, political subdivision,
59 cooperative, or person with the authority to condemn
60 property pursuant to this chapter or any other provision of
61 law acquires any easement in this state by voluntary means
62 or by condemnation, and subsequently abandons or ceases to
63 utilize or maintain any plant, pipe, line, tower, or any
64 other facility built upon such easement, such corporation,
65 political subdivision, cooperative, or person shall, at its
66 own expense, remove from the property all above ground
67 components of such plant, pipe, line, tower, or any other
68 facility, and shall repair and reseed any barren area
69 utilizing best practices for erosion control as set forth by
70 the Missouri soil and water commission, unless otherwise
71 agreed in writing with the owner of the fee over which the
72 easement exists.

73 7. If any corporation, political subdivision,
74 cooperative, or person with the authority to condemn
75 property pursuant to this chapter or any other provision of
76 law acquires any easement in this state by voluntary means
77 or by condemnation, and subsequently abandons or ceases to
78 utilize or maintain any plant, pipe, line, tower, or any
79 other facility built upon such easement, such corporation,
80 political subdivision, cooperative, or person shall, at its
81 own expense, remove from the property all components of such
82 plant, pipe, line, tower, or any other facility located at
83 three feet of depth or less below ground, and shall repair
84 and reseed any barren area utilizing best practices for
85 erosion control as set forth by the Missouri soil and water

86 commission, unless otherwise agreed in writing with the
87 owner of the fee over which the easement exists.

88 8. If any corporation, political subdivision,
89 cooperative, or person with the authority to condemn
90 property pursuant to this chapter or any other provision of
91 law acquires any easement in this state by voluntary means
92 or by condemnation, and subsequently disturbs, causes damage
93 to, or removes any fence, or portion thereof, owned by the
94 property owner to access the easement area, such
95 corporation, political subdivision, cooperative, or person
96 shall, at its own expense, repair the fence to a lawful
97 state to comply with chapter 272, unless otherwise agreed in
98 writing with the owner of the fee over which the easement
99 exists.

100 9. Any corporation, political subdivision,
101 cooperative, or person with the authority to condemn
102 property pursuant to this chapter or any other provision of
103 law that violates in any material respect the provisions of
104 this section shall be liable to the owner of the property
105 over which such corporation, political subdivision,
106 cooperative, or person holds an easement for a civil penalty
107 of up to one thousand dollars for each violation for each
108 day such violation persists, except that the maximum penalty
109 for violation of the provisions of this section shall not
110 exceed one hundred thousand dollars for any related series
111 of violations. An action to recover such civil penalty may
112 be brought by any aggrieved owner of the property over which
113 an easement exists, or by the attorney general or by a
114 prosecuting attorney or circuit attorney on behalf of any
115 aggrieved owner of the property over which an easement
116 exists, in the circuit court of the county where such
117 property is located.

118 10. Any aggrieved owner of the property over which an
119 easement exists, or the attorney general or a prosecuting
120 attorney or circuit attorney, may bring an action in the
121 circuit court of the county where such property is located
122 for equitable relief to redress or restrain a violation by
123 any corporation, political subdivision, cooperative, or
124 person of any provision of this section. The court may
125 grant such relief as is necessary or appropriate, including
126 mandatory or prohibitive injunctive relief, temporary or
127 permanent.

128 11. As used in this section, the term "political
129 subdivision" means:

130 (1) Any agency or unit of this state;

131 (2) Any county of this state;

132 (3) Any municipality of this state;

133 (4) Any agency or unit authorized to levy taxes or
134 empowered to cause taxes to be levied which now is, or
135 hereafter shall be, authorized to acquire property by
136 eminent domain;

137 (5) Townships, cities, towns, villages, school, road,
138 drainage, sewer, and levee districts, and any other public
139 subdivision, public corporation, or public quasi-corporation
140 having the power to tax; or

141 (6) Any other entity empowered to exercise eminent
142 domain authority pursuant to this chapter or any other
143 provision of law.

523.030. 1. Upon the filing of the petition, a
2 summons shall be issued, giving such owner at least [ten]
3 sixty days' notice from the date of the service of such
4 petition of the time when said petition will be heard, which
5 summons shall be served by the sheriff of the county, in the
6 same manner as writs of summons are or may be by law

7 required to be served. **Such petition shall not be heard**
8 **less than sixty days from the date such summons is served.**

9 If the name or residence of the owner is unknown, or if the
10 owners, or any of them, do not reside within the state,
11 notice of the time of hearing the petition, reciting the
12 substance of the petition and the day fixed for the hearing
13 thereof, shall be given by publication once each week for
14 three consecutive weeks prior to the time of hearing the
15 petition, in a newspaper published in the county in which
16 the proceedings are pending, if one is published in the
17 county, or if no newspaper is published in the county, or
18 the publisher shall refuse to publish the same on tender of
19 his usual charges for advertising, then by posting up said
20 notice for three consecutive weeks at the door of the
21 courthouse of the county wherein the lands or any portion of
22 them lie.

23 **2. Upon service of the summons as set forth in**
24 **subsection 1 of this section, the owner served shall have**
25 **thirty days after the date of service of the summons to**
26 **answer the petition by affirmation or denial of the**
27 **assertions set forth therein and assert all available**
28 **affirmative defenses. The owner may assert affirmative**
29 **defenses for fraud, bad faith, lack of statutory authority**
30 **and against any ultra vires or legally unauthorized act or**
31 **omission by the condemning authority and shall have the**
32 **standing to assert and prosecute claims for the same. If**
33 **the owner answers or sets forth affirmative defenses to the**
34 **petition, all rights of full discovery shall be afforded to**
35 **the parties as those set forth for civil cases under the**
36 **Missouri supreme court rules of civil procedure.**

37 **3. Failure of the owner to answer the petition**
38 **pursuant to subsection 2 of this section within thirty days**

39 of service of the summons shall not be deemed a default of
40 the owner's rights to a hearing pursuant to this section and
41 section 523.040.

42 4. At the initial hearing of the petition as set forth
43 in the summons required by this section, the condemning
44 authority shall have the burden to prove by clear and
45 convincing evidence that the condemning authority has the
46 statutory authority to condemn the property at issue in such
47 petition and that such condemning authority has followed its
48 own enacting and empowering statutes, rules, and bylaws in
49 pursuing condemnation of the owner's property.

50 5. It is the public policy of this state that the
51 rights of private property owners be protected against
52 unlawful or abusive exercises of condemnation authority.
53 This chapter shall be liberally construed in favor of the
54 private property owner and against condemning authorities.

523.039. 1. In all eminent domain proceedings filed
2 after December 31, 2006, just compensation for condemned
3 property shall be determined under one of the [three] **four**
4 following subdivisions, whichever yields the highest
5 compensation, as applicable to the particular type of
6 property and taking:

7 (1) An amount equivalent to the fair market value of
8 such property, **plus compensation equal to the amount of any**
9 **federal, state, or local taxes owed by owner of the**
10 **condemned property as a consequence of the eminent domain**
11 **proceeding, including, but not limited to, all capital gains**
12 **tax;**

13 (2) For condemnations that result in a homestead
14 taking, an amount equivalent to the fair market value of
15 such property multiplied by one hundred twenty-five percent,
16 **plus compensation equal to the amount of any federal, state,**

17 or local taxes owed by owner of the condemned property as a
18 consequence of the eminent domain proceeding, including, but
19 not limited to, all capital gains tax; [or]

20 (3) For condemnations of property [that result in any
21 taking that prevents the owner from utilizing property in
22 substantially the same manner as it was currently being
23 utilized on the day of the taking and] involving property
24 owned within the same family for [fifty] twenty or more
25 years, an amount equivalent to the sum of the fair market
26 value and heritage value, plus compensation equal to the
27 amount of any federal, state, or local taxes owed by owner
28 of the condemned property as a consequence of the eminent
29 domain proceeding, including, but not limited to, all
30 capital gains tax. For the purposes of this subdivision,
31 family ownership of property may be established through
32 evidence of ownership by children, grandchildren, siblings,
33 or nephews or nieces of the family member owning the
34 property [fifty] twenty years prior to the taking; and in
35 addition, may be established through marriage or adoption by
36 such family members. If any entity owns the real property,
37 members of the family shall have an ownership interest in
38 more than fifty percent of the entity in order to be within
39 the family line of ownership for the purposes of this
40 subdivision. The property owner shall have the burden of
41 proving to the commissioners or court that the property has
42 been owned within the same family for [fifty] twenty or more
43 years; or

44 (4) For condemnations that result in a beginning
45 farmer taking, an amount equivalent to the fair market value
46 of such property multiplied by one hundred twenty-five
47 percent plus compensation equal to the amount of any
48 federal, state, or local taxes owed by the owner of the

49 **condemned property as a consequence of the eminent domain**
50 **proceeding, including, but not limited to, all capital gains**
51 **tax.**

52 2. For eminent domain proceedings of any agricultural
53 or horticultural property by an electrical corporation as
54 defined in section 386.020, except for an electrical
55 corporation operating under a cooperative business plan as
56 described in section 393.110, for the purposes of
57 constructing an electric plant subject to a certificate of
58 convenience and necessity under subsection 1 of section
59 393.170 just compensation shall be an amount equivalent to
60 fair market value multiplied by one hundred fifty percent,
61 as determined by the court, **plus compensation equal to the**
62 **amount of any federal, state, or local taxes owed by owner**
63 **of the condemned property as consequence of the eminent**
64 **domain proceeding, including, but not limited to, all**
65 **capital gains tax.** The provisions of this subsection shall
66 not apply to applications filed pursuant to section 393.170
67 prior to August 28, 2022.

523.040. 1. The court, or judge thereof in vacation,
2 on being satisfied that due notice of the pendency of the
3 petition has been given, **and that the condemning authority**
4 **has proven by clear and convincing evidence that the**
5 **condemning authority has the statutory authority to condemn**
6 **the property at issue in such petition and that such**
7 **condemning authority has followed its own enacting and**
8 **empowering statutes, rules, and bylaws in pursuing**
9 **condemnation of the owner's property as set forth in section**
10 **523.030,** shall appoint three disinterested commissioners,
11 who shall be residents of the county in which the real
12 estate or a part thereof is situated, and in any city not
13 within a county, any county with a charter form of

14 government and with more than one million inhabitants, or
15 any county with a charter form of government and with more
16 than six hundred thousand but fewer than seven hundred
17 thousand inhabitants at least one of the commissioners shall
18 be either a licensed real estate broker or a state-licensed
19 or state-certified real estate appraiser, to assess the
20 damages which the owners may severally sustain by reason of
21 such appropriation, who, within forty-five days after
22 appointment by the court, which forty-five days may be
23 extended by the court to a date certain with good cause
24 shown, after applying the definition of fair market value
25 contained in subdivision (1) of section 523.001, and after
26 having viewed the property, shall return to the clerk of
27 such court, under oath, their report in duplicate of such
28 assessment of damages, setting forth the amount of damages
29 allowed to the person or persons named as owning or claiming
30 the tract of land condemned, and should more than one tract
31 be condemned in the petition, then the damages allowed to
32 the owner, owners, claimant or claimants of each tract,
33 respectively, shall be stated separately, together with a
34 specific description of the tracts for which such damages
35 are assessed; and the clerk shall file one copy of said
36 report in his office and record the same in the order book
37 of the court, and he shall deliver the other copy, duly
38 certified by him, to the recorder of deeds of the county
39 where the land lies (or to the recorder of deeds of the City
40 of St. Louis, if the land lies in said city) who shall
41 record the same in his office, and index each tract
42 separately as provided in section 59.440, and the fee for so
43 recording shall be taxed by the clerk as costs in the
44 proceedings; and thereupon such company shall pay to the
45 clerk the amount thus assessed for the party in whose favor

46 such damages have been assessed; and on making such payment
47 it shall be lawful for such company to hold the interest in
48 the property so appropriated for the uses prescribed in this
49 section; and upon failure to pay the assessment, the court
50 may, upon motion and notice by the party entitled to such
51 damages, enforce the payment of the same by execution,
52 unless the said company shall, within ten days from the
53 return of such assessment, elect to abandon the proposed
54 appropriation of any parcel of land, by an instrument in
55 writing to that effect, to be filed with the clerk of the
56 court, and entered on the minutes of the court, and as to so
57 much as is thus abandoned, the assessment of damages shall
58 be void.

59 2. Prior to the issuance of any report under
60 subsection 1 of this section, a commissioner shall notify
61 all parties named in the condemnation petition no less than
62 ten days prior to the commissioners' viewing of the property
63 of the named parties' opportunity to accompany the
64 commissioners on the commissioners' viewing of the property
65 and of the named parties' opportunity to present information
66 to the commissioners.

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

70 4. In any eminent domain proceeding involving
71 agricultural or horticultural property, for purposes of
72 constructing an electric plant subject to a certificate of
73 convenience and necessity under subsection 1 of section
74 393.170 at least one of the disinterested commissioners
75 appointed by the court shall be a farmer who has been
76 engaged in farming, as defined in section 350.010, for a
77 minimum of ten years in the county where such property is

78 situated. The provisions of this subsection shall not apply
79 to applications filed pursuant to section 393.170 prior to
80 August 28, 2022.

2 [523.061. After the filing of the
3 commissioners' report pursuant to section
4 523.040, the circuit judge presiding over the
5 condemnation proceeding shall apply the
6 provisions of section 523.039 and shall
7 determine whether a homestead taking has
8 occurred and shall determine whether heritage
9 value is payable and shall increase the
10 commissioners' award to provide for the
11 additional compensation due where a homestead
12 taking occurs or where heritage value applies,
13 in accordance with the just compensation
14 provisions of section 523.039. If a jury trial
15 of exceptions occurs under section 523.060 and
16 the circuit judge presiding over the
17 condemnation proceeding has determined that a
18 homestead taking has occurred or heritage value
19 is payable, the circuit judge presiding over the
20 condemnation proceeding shall apply the
21 provisions of section 523.039 and shall increase
22 the jury verdict to provide for the additional
23 compensation due where a homestead taking occurs
24 or where heritage value applies, in accordance
25 with the just compensation provisions of section
26 523.039. Notwithstanding any other provision of
27 law in sections 523.001 to 523.286 to the
28 contrary, a circuit judge who determines that
29 heritage value is payable as provided in this
30 section shall not increase the commissioners'
31 award or jury verdict to provide for the
32 additional compensation due where heritage value
33 applies if the plaintiff is a city, town, or
34 village that is incorporated in accordance with
35 the laws of this state and the plaintiff moves
36 for exclusion of the heritage value and shows
37 after an evidentiary hearing by a preponderance
38 of the evidence that the property taken has been:

(1) Abandoned;

- 39 (2) Declared a nuisance and been ordered
40 to be vacated;
41 (3) Demolished or repaired after notice
42 and hearing; or
43 (4) Materially and negatively contributed
44 to a blighted area as that term is defined in
45 section 99.805.]

523.061. After the filing of the commissioners' report
2 pursuant to section 523.040, the circuit judge presiding
3 over the condemnation proceeding shall apply the provisions
4 of section 523.039 and shall determine whether a homestead
5 taking **or beginning farmer taking** has occurred and shall
6 determine whether heritage value is payable and shall
7 increase the commissioners' award to provide for the
8 additional compensation due where a homestead taking **or**
9 **beginning farmer taking** occurs or where heritage value
10 applies, in accordance with the just compensation provisions
11 of section 523.039. If a jury trial of exceptions occurs
12 under section 523.060 **and the circuit judge presiding over**
13 **the condemnation proceeding has determined that a homestead**
14 **taking or beginning farmer taking has occurred or that the**
15 **heritage value is payable**, the circuit judge presiding over
16 the condemnation proceeding shall apply the provisions of
17 section 523.039 and [shall determine whether a homestead
18 taking has occurred and shall determine whether heritage
19 value is payable and] shall increase the jury verdict to
20 provide for the additional compensation due where a
21 homestead taking **or beginning farmer taking** occurs or where
22 heritage value applies, in accordance with the just
23 compensation provisions of section 523.039.

523.250. 1. At least sixty days before filing of a
2 condemnation petition seeking to acquire an interest in real
3 property, the condemning authority shall provide the owner

4 of record of such property with a written notice concerning
5 the intended acquisition. Such notice shall include:

6 (1) Identification of the interest in real property to
7 be acquired and a statement of the legal description or
8 commonly known location of the property;

9 (2) The purpose or purposes for which the property is
10 to be acquired;

11 (3) A statement that the property owner has the right
12 to:

13 (a) Seek legal counsel at the owner's expense;

14 (b) Make a counteroffer and engage in further
15 negotiations;

16 (c) Obtain such owner's own appraisal of just
17 compensation;

18 (d) Have just compensation determined preliminarily by
19 court-appointed condemnation commissioners and, ultimately,
20 by a jury;

21 (e) Seek assistance from the office of the ombudsman
22 for property rights created under section 523.277;

23 (f) Contest the right to condemn in the condemnation
24 proceeding; [and]

25 (g) Exercise the rights to request vacation of an
26 easement under the procedures and circumstances provided for
27 in section 527.188;

28 **(h) Seek an award for heritage value, a homestead**
29 **taking, or a beginning farmer taking pursuant to sections**
30 **523.001, 523.039, and 523.061; and**

31 **(i) Seek attorney's fees pursuant to section 523.253**
32 **if the amount awarded to the property owner by the**
33 **commissioners or jury is greater than the offer made by the**
34 **condemning authority; and**

35 **(4) A copy of section 523.015 and the list of**
36 **obligations and remedies set forth in section 523.015.**

37 An owner may waive the requirements of this subsection
38 prescribed above in a writing executed by the owner.

39 2. The written notice required by this section shall
40 be deposited in the United States mail, certified or
41 registered, and with postage prepaid, addressed to the owner
42 of record as listed in the office of the city or county
43 assessor for the city or county in which the property is
44 located. The receipt issued to the condemning authority by
45 the United States Post Office for certified or registered
46 mail shall constitute proof of compliance with this notice
47 requirement; provided, however, that nothing in this section
48 shall preclude a condemning authority from proving
49 compliance with this notice requirement by other competent
50 evidence.

 523.253. 1. A condemning authority shall present a
2 written offer to all owners of record of the property. The
3 offer must be made at least thirty days before filing a
4 condemnation petition and shall be held open for the thirty-
5 day period unless an agreement is reached sooner. **The**
6 **written offer presented pursuant to this section shall also**
7 **include a notice that all owners of record may seek an award**
8 **for heritage value, a homestead taking, or a beginning**
9 **farmer taking pursuant to sections 523.001, 523.039, and**
10 **523.061, a notice that all owners of record have the right**
11 **to pursue attorney's fees pursuant to subsection 3 of this**
12 **section, and a copy of section 523.015 and the list of**
13 **obligations and remedies set forth in section 523.015.** The
14 offer shall be deposited in the United States mail,
15 certified or registered, and with postage prepaid, addressed

16 to the owner of record as listed in the office of the city
17 or county assessor for the city or county in which the
18 property is located. The receipt issued to the condemning
19 authority by the United States [Post Office] **Postal Service**
20 for certified or registered mail shall constitute proof of
21 compliance with this requirement; provided, however, that
22 nothing in this section shall preclude a condemning
23 authority from proving compliance with this requirement by
24 other competent evidence. Nothing in this section shall
25 prohibit the parties from negotiating during the thirty-day
26 period.

27 2. (1) Any condemning authority shall, at the time of
28 the offer, provide the property owner with an appraisal or
29 an explanation with supporting financial data for its
30 determination of the value of the property for purposes of
31 the offer made in subsection 1 of this section.

32 (2) Any appraisal referred to in this section shall be
33 made by a state-licensed or state-certified appraiser using
34 generally accepted appraisal practices.

35 **3. In any condemnation proceeding, if the amount**
36 **awarded by the commissioners or jury is greater than the**
37 **offer made by the condemning authority pursuant to this**
38 **section, the court shall award attorney's fees to the**
39 **property owner in addition to the award in such proceeding.**

523.256. Before a court may enter an order of
2 condemnation, the court shall find that the condemning
3 authority engaged in good faith negotiations prior to filing
4 the condemnation petition. A condemning authority shall be
5 deemed to have engaged in good faith negotiations if:

6 (1) It has properly and timely given all notices to
7 owners required by this chapter;

8 (2) Its offer under section 523.253 was no lower than
9 the amount reflected in an appraisal performed by a state-
10 licensed or state-certified appraiser for the condemning
11 authority, provided an appraisal is given to the owner
12 pursuant to subsection 2 of section 523.253 or, in other
13 cases, the offer is no lower than the amount provided in the
14 basis for its determination of the value of the property as
15 provided to the owner under subsection 2 of section 523.253;

16 (3) For condemnation of any agricultural or
17 horticultural property for the construction of an electrical
18 transmission line [designed to transmit electricity at three
19 hundred forty-five kilovolts or greater], but not for
20 condemnation of such property by an electrical corporation
21 operating under a cooperative business plan as described in
22 section 393.110, for the purposes of constructing an
23 electric plant subject to a certificate of convenience and
24 necessity under subsection 1 of section 393.170, the total
25 compensation package offered was no lower than the amount
26 reflected in an appraisal performed by a state-licensed or
27 state-certified appraiser for the condemning authority
28 multiplied by one hundred fifty percent. The provisions of
29 this subdivision shall not apply to applications filed
30 pursuant to section 393.170 prior to August 28, 2022;

31 (4) The owner has been given an opportunity to obtain
32 his or her own appraisal from a state-licensed or state-
33 certified appraiser of his or her choice; and

34 (5) Where applicable, it has considered an alternate
35 location suggested by the owner under section 523.265.

36 If the court does not find that good faith negotiations have
37 occurred, the court shall dismiss the condemnation petition,
38 without prejudice, and shall order the condemning authority

39 to reimburse the owner for his or her actual reasonable
40 attorneys' fees and costs incurred with respect to the
41 condemnation proceeding which has been dismissed.

523.265. With regard to property interests acquired by
2 condemnation or negotiations in lieu of the exercise
3 thereof, within thirty days of receiving a written notice
4 sent under section 523.250, the landowner may propose to the
5 condemning authority in writing an alternative location for
6 the property to be condemned, which alternative location
7 shall be on the same parcel of the landowner's property as
8 the property the condemning authority seeks to condemn. The
9 proposal shall describe the alternative location in such
10 detail that the alternative location is clearly defined for
11 the condemning authority. The condemning authority shall
12 consider all such alternative locations. This section shall
13 not apply to takings of an entire parcel of land. A written
14 statement by the condemning authority to the landowner that
15 it has considered all such alternative locations, and
16 [briefly stating] **setting forth with specificity** why they
17 were rejected or accepted, is conclusive evidence that
18 sufficient consideration was given to the alternative
19 locations. **Any rejection of the landowner's suggested**
20 **alternative location shall not be arbitrary or capricious or**
21 **induced by fraud, collusion, or bad faith and shall be**
22 **supported by substantial evidence. A condemning authority**
23 **or the affected landowner may seek a determination as to**
24 **whether these standards have been met by a court of**
25 **competent jurisdiction in any condemnation action filed to**
26 **acquire the owner's property or in an action seeking a**
27 **declaratory judgment.**

2 [523.020. Any number of owners, residents
in the same county or circuit, may be joined in

3 one petition, and the damages to each shall be
4 separately assessed by the same commissioners.]

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