

**SUBSTITUTE FOR
HOUSE BILL NO. 5819**

A bill to amend 1980 PA 87, entitled
"The uniform condemnation procedures act,"
by amending section 9 (MCL 213.59), as amended by 1996 PA 474.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9. (1) If a motion for review under section 6 is not
2 filed, upon expiration of the time for filing the motion for
3 review, or, if a motion for review is filed, upon final
4 determination of the motion, the court shall fix the time and terms
5 for surrender of possession of the property to the agency and
6 enforce surrender by appropriate order or other process. The court
7 also may require surrender of possession of the property after the
8 motion for review filed under section 6 has been heard, determined
9 and denied by the circuit court, but before a final determination

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on appeal, if the agency demonstrates a reasonable need. <<

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(2) If interim possession is granted to a private agency, the court, upon motion of the owner, may order the private agency to file an indemnity bond in an amount determined by the court as necessary to adequately secure just compensation to the owner for the property taken.

(3) If an order granting interim possession is entered, an appeal from the order or any other part of the proceedings shall not act as a stay of the possession order. An agency is liable for damages caused by the possession if its right to possession is denied by the trial court or on appeal.

1 (4) Repayment of all sums advanced shall be a condition
2 precedent to entry of a final order setting aside a determination
3 of public necessity.

4 (5) Although the court shall not order possession to be
5 surrendered to the agency before it orders that the escrow be
6 distributed under section 8(1) or (4) or retained under section
7 8(2), the court shall not delay or deny surrender of possession
8 because of any of the following:

9 (a) A motion filed pursuant to section 6a, challenging the
10 agency's decision to reserve its rights to bring federal or state
11 cost recovery actions.

12 (b) A motion challenging the agency's escrow under section 8.

13 (c) An allegation that the agency should have offered a higher
14 amount for the property.

15 (d) An allegation that the agency should have included
16 additional property in its good faith written offer.

17 (e) Any other reason except a challenge to the necessity of
18 the acquisition filed under section 6.

<<(6) THE PAYMENT OF ESCROW, AS ORDERED UNDER SUBSECTION (5), MUST
BE MADE NO LATER THAN 30 DAYS BEFORE PHYSICAL DISPOSSESSION. IF THERE IS
A DISPUTE AFTER THE PAYMENT IS MADE, THE DISPUTE SHALL BE RESOLVED AT AN
APPORTIONMENT HEARING HELD BEFORE PHYSICAL DISPOSSESSION.

(7) THE FOLLOWING SPECIAL PROVISIONS APPLY IF THE SURRENDER OF
POSSESSION OF PROPERTY PURSUANT TO THE TRANSFER OF TITLE TO THE PROPERTY
IN CONDEMNATION PROCEEDINGS REQUIRES THE RELOCATION OF THE OWNER OR
ANOTHER OCCUPANT:

(A) IF THE SURRENDER OR POSSESSION OF PROPERTY REQUIRES THE
RELOCATION OF ANY INDIVIDUAL WHO OCCUPIES A RESIDENTIAL DWELLING ON THE
PROPERTY, THE INDIVIDUAL SHALL NOT BE REQUIRED TO MOVE FROM HIS OR HER
DWELLING UNLESS HE OR SHE HAS HAD A REASONABLE OPPORTUNITY NOT TO EXCEED
180 DAYS AFTER THE PAYMENT DATE OF MOVING EXPENSES OR THE MOVING
ALLOWANCE PROVIDED UNDER 1965 PA 40, MCL 213.351 TO 213.355, TO RELOCATE
TO A COMPARABLE REPLACEMENT DWELLING.

(B) HOWEVER, IF THE AGENCY IS COMPLYING WITH APPLICABLE FEDERAL
REGULATIONS AND PROCEDURES REGARDING PAYMENT OF COMPENSATION OR
RELOCATION REQUIREMENTS, THOSE FEDERAL REGULATIONS AND PROCEDURES TAKE
PRECEDENCE OVER ANY CONFLICTING PROVISIONS IN THIS SECTION.

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(8)>> AS USED IN THIS SECTION, "COMPARABLE REPLACEMENT DWELLING" MEANS ANY DWELLING THAT IS ALL OF THE FOLLOWING:

(A) DECENT, SAFE, AND SANITARY.

(B) ADEQUATE IN SIZE TO ACCOMMODATE THE OCCUPANTS.

(C) WITHIN THE FINANCIAL MEANS OF THE INDIVIDUAL.

(D) FUNCTIONALLY EQUIVALENT.

(E) IN AN AREA NOT SUBJECT TO UNREASONABLE ADVERSE ENVIRONMENTAL CONDITIONS.

(F) IN A LOCATION GENERALLY NOT LESS DESIRABLE THAN THE LOCATION OF THE INDIVIDUAL'S DWELLING WITH RESPECT TO PUBLIC UTILITIES, FACILITIES, SERVICES, AND THE INDIVIDUAL'S PLACE OF EMPLOYMENT.

Enacting section 1. This amendatory act takes effect December 23, 2006.>>

19 Enacting section <<2>>. This amendatory act does not take effect

20 unless all of the following bills of the 93rd Legislature are
21 enacted into law:

22 (a) House Bill No. 5817.

23 (b) House Bill No. 5818.

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