

HOUSE BILL No. 5820

March 2, 2006, Introduced by Reps. Lemmons, III, Drolet, Jones, Gosselin, Tobocman, Stahl, Brandenburg, Baxter, Elsenheimer, Rocca, Mortimer, Huizenga, Lipsey and Acciavatti and referred to the Committee on Government Operations.

A bill to amend 1980 PA 87, entitled
"The uniform condemnation procedures act,"
by amending section 8 (MCL 213.58), as amended by 1996 PA 474.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8. (1) Except as provided in subsections (2) and (3), if
2 a motion for review under section 6 is not filed or is denied and
3 the right to appeal has terminated or if interim possession is
4 granted under section 9, the court shall order the escrowee to pay
5 the money deposited under section 5 for or on account of the just
6 compensation that may be awarded under section 13. Except as
7 provided in subsections (2) and (3), if a motion for review under
8 section 6 is not filed, the court shall, within 30 days, order the
9 escrowee to pay the money deposited under section 5 for or on

1 account of the just compensation that may be awarded under section
2 13. Upon the motion of any party, the court shall apportion the
3 estimated compensation among the claimants to the compensation.

4 (2) ~~If~~ **EXCEPT AS PROVIDED IN SUBSECTION (5), IF** the agency
5 reserves its rights to bring a state or federal cost recovery claim
6 against an owner, under circumstances that the court considers
7 just, the court may allow any portion of the money deposited under
8 section 5 to remain in escrow as security for remediation costs of
9 environmental contamination on the condemned parcel. An agency
10 shall present an affidavit and environmental report establishing
11 that the funds placed on deposit under section 5 are likely to be
12 required to remediate the property. The amount in escrow shall not
13 exceed the likely costs of remediation if the property were used
14 for its highest and best use. This subsection does not limit or
15 expand an owner's or agency's rights to bring federal or state cost
16 recovery claims.

17 (3) Notwithstanding any order entered by the court requiring
18 money deposited pursuant to section 5 to remain in escrow for the
19 payment of estimated remediation costs of contaminated property,
20 the funds in escrow, plus interest subject to section 15, shall be
21 released among the claimants to the just compensation under
22 circumstances that the court considers just, including any of the
23 following circumstances:

24 (a) The court finds that the applicable statutory requirements
25 for remediation have changed and the amount remaining in escrow is
26 no longer required in full or in part to remediate the alleged
27 environmental contamination.

1 (b) The court finds that the anticipated need for the
2 remediation of the alleged environmental contamination is not
3 required or is not required to the extent of the funds remaining on
4 deposit.

5 (c) If the remediation of the property is not initiated by the
6 agency within 2 years of surrender of possession pursuant to
7 section 9 and the agency is unable to show good cause for delay.

8 (d) The costs actually expended for remediation are less than
9 the estimated costs of remediation or less than the amount of money
10 remaining in escrow.

11 (e) A court issues an order of apportionment of remediation
12 responsibility.

13 (4) If the court orders the agency to reverse its election
14 under section 6a(1), the court shall order the escrowee to pay the
15 amount of the revised good faith written offer for or on account of
16 the just compensation that may be awarded pursuant to section 13,
17 and to pay the balance of the escrow to the agency. If the agency
18 seeks possession before the court decides whether to reverse the
19 agency's election or before submitting a revised good faith offer,
20 the agency may request that the court order a portion of the escrow
21 withheld in anticipation of a reduction in the revised good faith
22 offer, with the balance to be paid by the escrowee for or on
23 account of the just compensation that may be awarded pursuant to
24 section 13. If the court denies the request to reverse the agency's
25 election or when the revised good faith offer is submitted, the
26 court shall order the escrowee to pay any unpaid portion of it for
27 or on account of the owner and to pay any balance to the agency.

1 (5) SUBSECTIONS (2) AND (3) DO NOT APPLY TO MONEY DEPOSITED
2 UNDER SECTION 5 IN ESCROW FOR THE PAYMENT OF JUST COMPENSATION FOR
3 A PROPERTY THAT IS A RESIDENTIAL DWELLING.

4 Enacting section 1. This amendatory act does not take effect
5 unless all of the following bills of the 93rd Legislature are
6 enacted into law:

7 (a) Senate Bill No.____ or House Bill No. 5821(request no.
8 05069'05).

9 (b) Senate Bill No.____ or House Bill No. 5817(request no.
10 05070'05).

11 (c) Senate Bill No.____ or House Bill No. 5818(request no.
12 06017'06).

13 (d) Senate Bill No.____ or House Bill No. 5819(request no.
14 06018'06).