

# HOUSE BILL No. 6154

November 8, 1990, Introduced by Rep. Jaye and referred to the Committee on State Affairs.

A bill to amend the title and section 2 of Act No. 87 of the Public Acts of 1980, entitled as amended "The uniform condemnation procedures act," being section 213.52 of the Michigan Compiled Laws; and to add section 2a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. The title and section 2 of Act No. 87 of the  
2 Public Acts of 1980, being section 213.52 of the Michigan  
3 Compiled Laws, are amended and section 2a is added to read as  
4 follows:

### TITLE

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6       An act to provide procedures for the condemnation, acqui-  
7 tion, or exercise of eminent domain of real or personal property  
8 by public agencies or private agencies; TO RESTRICT THE PURPOSES  
9 FOR WHICH THE POWER OF EMINENT DOMAIN MAY BE EXERCISED UNDER

1 CERTAIN CIRCUMSTANCES; to provide for an agency's entry upon land  
2 for certain purposes; to provide for damages; to prescribe reme-  
3 dies; and to repeal certain acts and parts of acts.

4       Sec. 2. (1) This act provides standards for the acquisi-  
5 tion of property by an agency, the conduct of condemnation  
6 actions, and the determination of just compensation. It does not  
7 confer the power of eminent domain ~~—~~ and, EXCEPT AS PROVIDED IN  
8 SECTION 2A, does not prescribe or restrict the purposes for which  
9 or the persons by whom that power may be exercised. All laws and  
10 court rules applicable to civil actions shall apply to condemna-  
11 tion proceedings except as otherwise provided in this act.

12       (2) If property is to be acquired by an agency through the  
13 exercise of its power of eminent domain, the agency shall com-  
14 mence a condemnation action for that purpose. An agency shall  
15 not intentionally make it necessary for an owner of property to  
16 commence an action, including an action for constructive taking  
17 or de facto taking, to prove the fact of the taking of the  
18 property.

19       (3) If a private agency is required by law to secure a cer-  
20 tificate of public necessity from the public service commission  
21 or other public agency before it may acquire property, the pri-  
22 vate agency shall not institute judicial proceedings to acquire  
23 the property until it has secured the required certificate.

24       SEC. 2A. (1) AN AGENCY SHALL NOT ACQUIRE PROPERTY UNDER  
25 THIS ACT IF BOTH OF THE FOLLOWING APPLY:

26       (A) THE ACQUISITION OF THE PROPERTY WILL BENEFIT SPECIFIC  
27 AND IDENTIFIABLE PRIVATE INTERESTS OF A PRIVATE PERSON.

1 (B) AFTER ACQUIRING THE PROPERTY, THE AGENCY WILL, DIRECTLY  
2 OR INDIRECTLY, SELL THE PROPERTY TO OR LEASE THE PROPERTY TO THE  
3 PRIVATE PERSON DESCRIBED IN SUBDIVISION (A); OR WILL ALLOW THE  
4 PRIVATE USE OF THE PROPERTY, WHICH USE IS DISTINCT FROM THE USE  
5 OF OTHER MEMBERS OF THE PUBLIC, BY THE PRIVATE PERSON DESCRIBED  
6 IN SUBDIVISION (A).

7 (2) AS USED IN THIS SECTION, "PERSON" INCLUDES AN INDIVIDU-  
8 AL, PARTNERSHIP, ASSOCIATION, CORPORATION, OR ENTITY.