

Act No. 31  
Public Acts of 1995  
Approved by the Governor  
May 17, 1995  
Filed with the Secretary of State  
May 17, 1995

**STATE OF MICHIGAN  
88TH LEGISLATURE  
REGULAR SESSION OF 1995**

Introduced by Senators Bennett and Dunaskiss

# **ENROLLED SENATE BILL No. 409**

AN ACT to amend section 6 of Act No. 87 of the Public Acts of 1980, entitled as amended "An act to provide procedures for the condemnation, acquisition, or exercise of eminent domain of real or personal property by public agencies or private agencies; to provide for an agency's entry upon land for certain purposes; to provide for damages; to prescribe remedies; and to repeal certain acts and parts of acts," being section 213.56 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Section 6 of Act No. 87 of the Public Acts of 1980, being section 213.56 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 6. (1) Within the time prescribed to responsively plead after service of a complaint, an owner of the property desiring to challenge the necessity of acquisition of all or part of the property for the purposes stated in the complaint may file a motion in the pending action asking that the necessity be reviewed. The hearing shall be held within 30 days after the filing of the motion.

(2) With respect to an acquisition by a public agency, the determination of public necessity by that agency is binding on the court in the absence of a showing of fraud, error of law, or abuse of discretion.

(3) Except as otherwise provided in this section, with respect to an acquisition by a private agency, the court at the hearing shall determine the public necessity of the acquisition of the particular parcel. The granting of a permanent or temporary certificate by the public service commission constitutes a prima facie case that the project in furtherance of which the particular parcel would be acquired is required by the public convenience and necessity. The granting of a certificate of public convenience and necessity by the public service commission pursuant to the electric transmission line certification act is binding on the court.

(4) The court shall render a decision within 60 days after the date on which the hearing is first scheduled.

(5) The court's determination of a motion to review necessity is a final judgment.

(6) Notwithstanding section 309 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.309 of the Michigan Compiled Laws, an order of the court upholding or determining public necessity or upholding the validity of the condemnation proceeding is appealable to the court of appeals only by leave of that court pursuant to the general court rules. In the absence of a timely filed appeal of the order, an appeal shall not be granted and the order is not appealable as part of an appeal from a judgment as to just compensation.

(7) If a motion to review necessity is not filed as provided in this section, necessity shall be conclusively presumed to exist and the right to have necessity reviewed or further considered is waived.

Section 2. This amendatory act shall not take effect unless Senate Bill No. 408 of the 88th Legislature is enacted into law.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved -----

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Governor.