

# HOUSE BILL No. 5819

March 2, 2006, Introduced by Reps. Garfield, Drolet, Green, 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 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

1 on appeal, if the agency demonstrates a reasonable need. **HOWEVER,**  
2 **PAYMENT MUST BE MADE TO AN OWNER NOT LATER THAN 30 DAYS BEFORE**  
3 **PHYSICAL DISPOSSESSION. IF THERE IS A DISPUTE AFTER THE PAYMENT IS**  
4 **MADE, THE DISPUTE SHALL BE RESOLVED AT AN APPORTIONMENT HEARING**  
5 **HELD BEFORE PHYSICAL DISPOSSESSION. IF THE SURRENDER OF POSSESSION**  
6 **OF PROPERTY REQUIRES THE RELOCATION OF ANY INDIVIDUAL WHO OCCUPIES**  
7 **A RESIDENTIAL DWELLING ON THE PROPERTY, THE INDIVIDUAL SHALL NOT BE**  
8 **REQUIRED TO MOVE FROM HIS OR HER DWELLING UNLESS HE OR SHE HAS HAD**  
9 **A REASONABLE OPPORTUNITY TO RELOCATE TO A COMPARABLE REPLACEMENT**  
10 **DWELLING AND HAS BEEN PAID THE MOVING ALLOWANCE PROVIDED FOR UNDER**  
11 **1965 PA 40, MCL 213.351 TO 213.355.**

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

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

22 (4) Repayment of all sums advanced shall be a condition  
23 precedent to entry of a final order setting aside a determination  
24 of public necessity.

25 (5) Although the court shall not order possession to be  
26 surrendered to the agency before it orders that the escrow be  
27 distributed under section 8(1) or ~~-(4) or retained under section~~

1 ~~8(2),~~ (2), the court shall not delay or deny surrender of  
2 possession because of any of the following:

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

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

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

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

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

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

16 (a) Senate Bill No.\_\_\_\_ or House Bill No. 5821(request no.  
17 05069'05).

18 (b) Senate Bill No.\_\_\_\_ or House Bill No. 5817(request no.  
19 05070'05).

20 (c) Senate Bill No.\_\_\_\_ or House Bill No. 5818(request no.  
21 06017'06).

22 (d) Senate Bill No.\_\_\_\_ or House Bill No. 5820(request no.  
23 06019'06).