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1977 Assembly Bill 969

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CHAPTER 438, Laws of 1977

AN ACT to renumber 32.05 (2) and 32.06 (2); to amend 32.05 (2a), 32.06 (2a), 32.09 (6) (e) and 32.19 (4) (a) (intro.) and (b) (intro.); to repeal and recreate

32.02 (intro.), 32.05 (8) and 32.06 (9) (c); and to create 32.05 (2) (b), 32.06 (2) (b), 32.19 (2m) and (4) (bm) and 32.26 (6) of the statutes, relating to making various changes in the law on eminent domain.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 32.02 (intro.) of the statutes, as affected by chapter 29, laws of 1977, is repealed and recreated to read:

32.02 Who may condemn; purposes. (intro.) The following departments, municipalities, boards, commissions, public officers and corporations may acquire by condemnation any real estate and personal property appurtenant thereto or interest therein which they have power to acquire and hold or transfer to the state, for the purposes specified, in case such property cannot be acquired by gift or purchase at an agreed price:

SECTION 2. 32.05 (2) of the statutes is renumbered 32.05 (2) (a).

SECTION 3. 32.05 (2) (b) of the statutes is created to read:

32.05 (2) (b) The condemnor shall provide the owner with a full narrative appraisal upon which the jurisdictional offer is based and a copy of any other appraisal made under par. (a) and at the same time shall inform the owner of his or her right to obtain an appraisal under this paragraph. The owner may obtain an appraisal by a qualified appraiser of all property proposed to be acquired, and may submit the reasonable costs of the appraisal to the condemnor for payment. The owner shall submit a full narrative appraisal to the condemnor within 60 days after the owner receives the condemnor's appraisal. If the owner does not accept a negotiated offer under sub. (2a) or the jurisdictional offer under sub. (3), the owner may use an appraisal prepared under this paragraph in any subsequent appeal.

SECTION 4. 32.05 (2a) of the statutes is amended to read:

32.05 (2a) NEGOTIATION. Before making the jurisdictional offer provided in sub. (3), the condemnor shall attempt to negotiate personally with the owner or one of the owners or his ~~personal~~ or her representative of the property sought to be taken for the purchase of the same. In such negotiation the condemnor ~~is authorized to~~ shall consider the owner's appraisal under sub. (2) (b) and may contract to pay the items of compensation enumerated in ss. 32.09 and 32.19 as may be applicable to the property in one or more instalments on such conditions as the condemnor and property owners may agree. Before attempting to negotiate under this paragraph, the condemnor shall provide the owner or his or her representative with copies of applicable pamphlets prepared under s. 32.26 (6). When negotiating under this subsection, the condemnor shall provide the owner or his or her representative with the names of at least 10 neighboring landowners to whom offers are being made, or a list of all offerees if less than 10 owners are affected, together with a map showing all property affected by the project. Upon request by an owner or his or her representative, the condemnor shall provide the name of the owner of any other property which may be taken for the project. The owner or his or her representative shall also have the right, upon request, to examine any maps in the possession of the condemnor showing property affected by the project. The owner or his or her representative may obtain copies of such maps by tendering the reasonable and necessary costs of preparing copies.

SECTION 5. 32.05 (8) of the statutes is repealed and recreated to read:

32.05 (8) OCCUPANCY; WRIT OF ASSISTANCE; WASTE. The condemnor shall allow any person occupying the property on the date that title vests in the condemnor to continue to occupy the property for at least one month after that date. The condemnor may not charge rent for any property occupied after the date that title vests in the condemnor by a person who occupied the property on that date. Any person occupying the property after the date that title vests in the condemnor shall be liable to the condemnor for all waste committed or allowed by the occupant on the lands

condemned during the occupancy. The condemnor shall have the right to possession when the persons who occupied the property on the date that title vests in the condemnor vacate, or one month after the date that title vests in the condemnor, whichever is sooner. This time period may be extended by the circuit court, if the court deems it reasonable under the circumstances. If the condemnor is denied the right of possession, the condemnor may, upon 48 hours' notice to the occupant, apply to the circuit court where the property is located for a writ of assistance to be put in possession. The circuit court shall grant the writ of assistance if all jurisdictional requirements have been complied with and if the award has been paid or tendered as required.

SECTION 6. 32.06 (2) of the statutes is renumbered 32.06 (2) (a).

SECTION 7. 32.06 (2) (b) of the statutes is created to read:

32.06 (2) (b) The condemnor shall provide the owner with a full narrative appraisal upon which the jurisdictional offer is based and a copy of any appraisal made under par. (a) and at the same time shall inform the owner of his or her right to obtain an appraisal under this paragraph. The owner may obtain an appraisal by a qualified appraiser of all property proposed to be acquired, and submit the reasonable costs of the appraisal to the condemnor for payment. The owner shall submit a full narrative appraisal to the condemnor within 60 days after the owner receives the condemnor's appraisal. If the owner does not accept a negotiated offer under sub. (2a) or the jurisdictional offer under sub. (3), the owner may use an appraisal prepared under this paragraph in any subsequent appeal.

SECTION 8. 32.06 (2a) of the statutes is amended to read:

32.06 (2a) AGREED PRICE. Before making the jurisdictional offer provided in sub. (3) the condemnor shall attempt to negotiate personally with the owner or one of the owners or his ~~personal or her~~ representative of the property sought to be taken for the purchase of the same. In such negotiation the condemnor shall consider the owner's appraisal under sub. (2) (b) and may contract to pay the items of compensation enumerated in ss. 32.09 and 32.19 where shown to exist. Before attempting to negotiate under this paragraph, the condemnor shall provide the owner or his or her representative with copies of applicable pamphlets prepared under s. 32.26 (6). When negotiating under this subsection, the condemnor shall provide the owner or his or her representative with the names of at least 10 neighboring landowners to whom offers are being made, or a list of all offerees if less than 10 owners are affected, together with a map showing all property affected by the project. Upon request by an owner or his or her representative, the condemnor shall provide the name of the owner of any other property which may be taken for the project. The owner or his or her representative shall also have the right, upon request, to examine any maps in the possession of the condemnor showing property affected by the project. The owner or his or her representative may obtain copies of such maps by tendering the reasonable and necessary costs of preparing copies.

SECTION 9. 32.06 (9) (c) of the statutes is repealed and recreated to read:

32.06 (9) (c) Upon application to the circuit court, any person occupying the property on the date that title vests in the condemnor may continue to occupy the property for a period not to exceed 4 months after that date, if the circuit court determines that such continued occupancy by the person is reasonably necessary under the circumstances. The condemnor may not charge rent for any property occupied after the date that title vests in the condemnor by a person who occupied the property on that date. Any person occupying the property after the date that title vests in the condemnor shall be liable to the condemnor for all waste committed or allowed by the occupant on the lands condemned during the occupancy. The condemnor shall have the right to possession when the persons who occupied the property on the date that title vests in the condemnor vacate, or 4 months after the date that title vests in the condemnor, whichever is sooner. This time period may be extended by the circuit court, if the court deems it reasonably necessary under the circumstances. If the condemnor is denied the right of possession, the condemnor may, upon 48 hours' notice

to the occupant, apply to the circuit court where the property is located for a writ of assistance to be put in possession. The circuit court shall grant the writ of assistance if all jurisdictional requirements have been complied with and if the award has been paid or tendered as required.

SECTION 10. 32.09 (6) (e) of the statutes is amended to read:

32.09 (6) (e) Damages resulting from actual severance of land including damages resulting from severance of improvements or fixtures and proximity damage to improvements remaining on condemnee's land. In determining severance damages under this paragraph, the condemnor may consider damages which may arise during construction of the public improvement, including damages from noise, dirt, temporary interference with vehicular or pedestrian access to the property and limitations on use of the property. The condemnor may also consider costs of extra travel made necessary by the public improvement based on the increased distance after construction of the public improvement necessary to reach any point on the property from any other point on the property.

SECTION 11. 32.19 (2m) of the statutes is created to read:

32.19 (2m) INFORMATION ON PAYMENTS. Before initiating negotiations to acquire the property under s. 32.05 (2a), 32.06 (2a) or chapter 275, laws of 1931, as amended (Kline Law), the condemnor shall provide displaced persons with copies of applicable pamphlets prepared under s. 32.26 (6).

SECTION 12. 32.19 (4) (a) (intro.) and (b) (intro.) of the statutes are amended to read:

32.19 (4) (a) (intro.) *Owner-occupants.* In addition to amounts otherwise authorized by this chapter, the condemnor shall make a payment, not to exceed \$15,000, to any displaced person who is displaced from a dwelling actually owned and occupied, or from a mobile home site actually owned or occupied, by the displaced person for not less than 180 days prior to the initiation of negotiations for the acquisition of the property. For the purposes of this paragraph, a nonprofit corporation organized under ch. 181 may, if otherwise eligible, be considered a displaced owner. A displaced owner may elect to receive the payment under par. (b) in lieu of the payment under this paragraph. Such payment includes only the following:

(b) (intro.) *Tenants and certain others.* In addition to amounts otherwise authorized by this chapter, the condemnor shall make a payment to any individual or family displaced from any dwelling ~~not eligible to receive a payment under par. (a) which dwelling which~~ was actually and lawfully occupied by such individual or family for not less than 90 days prior to the initiation of the attempt to purchase such property. For purposes of this paragraph, a nonprofit corporation organized under ch. 181 may, if otherwise eligible, be considered a displaced tenant. Such payment shall be either:

SECTION 13. 32.19 (4) (bm) of the statutes is created to read:

32.19 (4) (bm) *Additional payment.* If a comparable dwelling is not available within the monetary limits established in par. (a) or (b), the condemnor may exceed the monetary limits and make payments necessary to provide replacement housing comparable to that occupied by the displaced person at the initiation of negotiations for the acquisition of the property.

SECTION 14. 32.26 (6) of the statutes is created to read:

32.26 (6) The department of local affairs and development, with the cooperation of the attorney general, shall prepare pamphlets in simple language and in readable format describing the eminent domain laws of this state, including the reasons for condemnation, the procedures followed by condemnors, how citizens may influence the condemnation process and the rights of property owners and citizens affected by condemnation. The department shall make copies of the pamphlets available to all condemnors, who may be charged a price for the pamphlets sufficient to recover the costs of production.

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SECTION 15. **Program responsibilities.** In the list of program responsibilities specified for the department of justice in section 15.251 (intro.) of the statutes, insert reference to section "32.26 (6)".
