

Legislative Analysis



CONDEMNATION AMENDMENTS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5817

Sponsor: Rep. Steve Tobocman

House Bill 5818

Sponsor: Rep. Leon Drolet

House Bill 5819

Sponsor: Rep. John Garfield

House Bill 5820

Sponsor: Rep. LaMar Lemmons, III

House Bill 5821

Sponsor: Rep. Bill McConico

Committee: Government Operations

Complete to 3-6-06

A SUMMARY OF HOUSE BILLS 5817 – 5821 AS INTRODUCED 3-2-06

House Bill 5817

Public Act 40 of 1965 (MCL 213.352) generally requires public agencies obtaining land for a public purpose through purchase or condemnation to pay the necessary and reasonable moving expenses of an occupant of the land. The act caps the payment at \$1,000 for individuals and families, and \$15,000 for businesses, including farming operations and nonprofit organizations.

House Bill 5817 would increase cap on payments made to individuals and families to \$5,200. The bill would not, however, increase the cap on payments made to businesses. Also, the bill specifies that occupants of residential property with a leasehold interest of less than six months would be entitled to a fixed moving allowance of \$5,200. Further, the bill provides that the court could award reasonable attorney fees and costs to an occupant with a leasehold interest of less than six months who bring a successful action to recover the moving allowance.

In addition, the act requires an occupant to vacate the property before payment is made. The bill provides that a payment may be made to an occupant before he or she moves, if the payment is necessary to enable to occupant to move.

House Bill 5818

The Uniform Condemnation Procedures Act (MCL 213.66) generally provides that a condemning agency is not required to reimburse a person challenging the necessity of the taking or the validity of the proceedings for attorney or expert witness fees if the challenge is unsuccessful. The bill provides that the agency would be required to reimburse attorney and expert witness in an unsuccessful challenge if the person's annual income is at or below 125 percent of the federal poverty level.

House Bill 5819

The bill would amend the Uniform Condemnation Procedures Act (MCL 213.59) to require that property owners be paid at least 30 days prior to dispossession of their property. Any disputes that arise after payment is made would have to be resolved at an appropriate hearing before dispossession.

Further, the bill provides that if dispossession requires an occupant of a residential dwelling on the property to move, the occupant could not be required to move unless he or she has been provided a reasonable opportunity to relocate to a comparable replacement dwelling and has been paid the moving allowance as provided under Public Act 40 of 1965.

House Bill 5820

The Uniform Condemnation Procedures Act (MCL 213.58) permits a public agency to bring a state or federal cost recovery claim against a property owner to remediate any environmental contamination, and further permits the court to allow a portion of the just compensation payment to a property owner remain in escrow as security for the remediation costs. The bill provides that money wouldn't remain in escrow as security for remediation costs if the property is a residential dwelling.

House Bill 5821

The Uniform Condemnation Procedures Act (MCL 213.55) generally provides that before an agency initiates negotiations to purchase a property, it must provide the property owner with a good faith written offer of "just compensation" for the property. If the agency and the owner cannot agree on the purchase price, the agency may file an action in the circuit court of the county where the property is located, asking the court to determine the amount of just compensation. When an action is filed, the agency must place an amount it believes to be just compensation in escrow and set aside for the property owner.

The bill provides that at the time the agency provides the property owner with its good faith offer of just compensation, it must also notify the property's occupants of the condemnation proceeding, stating their basic rights in the process, including the fact that a person with a leasehold interest of less than six months is entitled to a \$5,200 moving allowance, and that occupants of a residential dwelling could not be displaced until they have had a reasonable opportunity to relocate to a comparable dwelling and have been paid the moving allowance.

The act also permits a property owner to file a written claim with the agency stating property the owner believes was not included or fully included in the agency's good faith offer, and requires that such claims be filed within 90 days after receiving the written offer or 60 days after a complaint is filed. The act also requires that the agency ask to court to compel the property owner with additional information necessary to evaluate the

claim within 60 days after receiving the claim. The bill would delete these time requirements, and provide that the property owners claim would have to be filed along with the appraisal, unless otherwise required by the court. The bill would also require the property owner to provide available information necessary to permit the agency to evaluate any claim that has not fully accrued or is continuing in nature

FISCAL IMPACT:

The bills would have no direct impact on state revenue. They could, however, result in increased costs to various state and/or local entities.

Legislative Analyst: Mark Wolf
Fiscal Analyst: Jim Stansell

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