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Legislative Service Commission

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136th General Assembly
Regular Session **. B. No.**
2025-2026

To amend sections 163.01 and 163.06 of the Revised Code regarding Ohio eminent domain law.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 163.01 and 163.06 of the Revised Code be amended to read as follows:

Sec. 163.01. As used in sections 163.01 to 163.22 of the Revised Code:

(A) "Public agency" means any governmental corporation, unit, organization, instrumentality, or officer authorized by law to appropriate property in the courts of this state.

(B) "Private agency" means any corporation, firm, partnership, voluntary association, joint-stock association, or company that is not a public agency and that is authorized by law to appropriate property in the courts of this state.

(C) "Agency" means any public agency or private agency.

(D) "Court" means the court of common pleas or the probate court of any county in which the property sought to be appropriated is located in whole or in part.

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(E) "Owner" means any individual, partnership, association, or corporation having any estate, title, or interest in any real property sought to be appropriated.

(F) "Real property," "land," or "property" includes any estate, title, or interest in any real property that is authorized to be appropriated by the agency in question, unless the context otherwise requires.

(G) "Public utility" has the same meaning as in section 4905.02 of the Revised Code and also includes a public utility owned or operated by one or more municipal corporations, an electric cooperative, ~~and~~ an agency holding a certificate of public convenience and necessity granted by the federal energy regulatory commission, and an agency holding a certificate of environmental compatibility and public need from the power siting board for constructing an electric transmission line and associated facilities or gas pipeline and its associated facilities.

(H)(1) "Public use" does not include any taking that is for conveyance to a private commercial enterprise, economic development, or solely for the purpose of increasing public revenue, unless the property is conveyed or leased to one of the following:

(a) A public utility, municipal power agency, or common carrier;

(b) A private entity that occupies a port authority transportation facility or an incidental area within a publicly owned and occupied project;

(c) A private entity when the agency that takes the property establishes by a preponderance of the evidence that the

property is a blighted parcel or is included in a blighted area.

(2) All of the following are presumed to be public uses: utility facilities, roads, sewers, water lines, public schools, public institutions of higher education, private institutions of higher education that are authorized to appropriate property under section 3333.08 of the Revised Code, public parks, government buildings, port authority transportation facilities, projects by an agency that is a public utility, and similar facilities and uses of land.

(I) "Electric cooperative" has the same meaning as in section 4928.01 of the Revised Code.

(J) "Good faith offer" means the written offer that an agency that is appropriating property must make to the owner of the property pursuant to division (B) of section 163.04 of the Revised Code before commencing an appropriation proceeding.

(K) "Goodwill" means the calculable benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality, and any other circumstances that result in probable retention of old, or acquisition of new, patronage.

(L) "Municipal power agency" has the same meaning as in section 3734.058 of the Revised Code.

(M) "Port authority transportation facility" means any facility developed, controlled, or operated by a port authority for the purpose of providing passenger, cargo, or freight transportation services, such as airports, maritime ports, rail facilities, transit facilities, and support facilities directly related to any airport, maritime port, rail facility, or transit facility.

Sec. 163.06. (A) A public agency, other than an agency appropriating property for the purposes described in division (B) of this section, that qualifies pursuant to Section 19 of Article I, Ohio Constitution, may deposit with the court at the time of filing the petition the value of such property appropriated together with the damages, if any, to the residue, as determined by the public agency, and thereupon take possession of and enter upon the property appropriated. The right of possession upon deposit as provided in this division shall not extend to structures.

(B) A public agency appropriating property for the purpose of making or repairing roads which shall be open to the public, without charge, or for the purpose of implementing rail service under Chapter 4981. of the Revised Code, or a public utility as defined under division (G) of section 163.01 of the Revised Code, may deposit with the court at the time of filing the petition the value of such property appropriated together with the damages, if any, to the residue, as determined by ~~the public agency~~an appraiser that is prequalified under section 5526.04 of the Revised Code to provide relevant appraisal services, or any other independent and impartial appraiser who is qualified to make such appraisal, and stated in an attached declaration of intention to obtain possession and thereupon take possession of and enter upon the property appropriated, including structures situated upon the land appropriated for such purpose or situated partly upon the land appropriated therefor and partly upon adjoining land, so that such structures cannot be divided upon the line between such lands without manifest injury thereto. The jury, in assessing compensation to any owner of land appropriated under this division shall assess the value thereof in accordance with section 163.14 of the Revised Code. The owner

or occupant of such structures shall vacate the same within sixty days after service of summons as required under section 163.07 of the Revised Code, after which time the agency may remove said structures. In the event such structures are to be removed before the jury has fixed the value of the same, the court, upon motion of the agency, shall:

(1) Order appraisals to be made by three persons, one to be named by the owner, one by the county auditor, and one by the agency. Such appraisals may be used as evidence by the owner or the agency in the trial of said case but shall not be binding on said owner, agency, or the jury, and the expense of said appraisals shall be approved by the court and charged as costs in said case.

(2) Cause pictures to be taken of all sides of said structures;

(3) Compile a complete description of said structures, which shall be preserved as evidence in said case to which the owner or occupants shall have access.

(C) Any time after the deposit is made by the public agency under division (A) or (B) of this section, the owner may apply to the court to withdraw the deposit, and such withdrawal shall in no way interfere with the action except that the sum so withdrawn shall be deducted from the sum of the final verdict or award. Upon such application being made the court shall direct that the sum be paid to such owner subject to the rights of other parties in interest provided such parties make timely application as provided in section 163.18 of the Revised Code. Interest shall not accrue on any sums withdrawable as provided in this division.

Section 2. That existing sections 163.01 and 163.06 of the Revised Code are hereby repealed.