

HOUSE BILL No. 2032

AN ACT concerning real property; relating to eminent domain; concerning relocation costs; amending K.S.A. 26-506, 26-508 and 58-3502 and repealing the existing sections; also repealing K.S.A. 58-3505.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 26-506 is hereby amended to read as follows: 26-506. (a) *Notice, time, place and manner of hearing.* The appraisers shall, after they have been sworn, and instructed by the judge, make their appraisal and assessment of damages, by actual view of the lands to be taken and of the tracts of which they are a part, and by hearing of oral or written testimony from the plaintiff and each interested party as named in K.S.A. 26-502, *and amendments thereto, appearing in person or by an attorney.* Such testimony shall be given at a public hearing held in the county where the action is pending at a time and place fixed by the appraisers. Notice of the hearing shall be mailed at least ~~ten (10)~~ 10 days in advance thereof to the plaintiff and to each party named in the petition if their address is known or can with reasonable diligence be ascertained, and by one publication in a newspaper of general circulation in each county where the lands are situated at least ~~ten (10)~~ 10 days in advance of the hearing. In case of failure to meet on the day designated in the notice, the appraisers may meet on the following day without further notice, ~~but in.~~ In case of failure to meet on either of ~~said~~ such days, a new notice shall be required. A hearing begun pursuant to proper notice may be continued or adjourned from day to day and from place to place until the hearing with respect to all properties involved in the action has been concluded.

(b) *Form of notice.* The notice of hearing shall be in substantially the following form:

In the District Court of _____ County, Kansas.

_____ Plaintiff, vs. _____ Defendant,

Notice is hereby given that the undersigned appraisers appointed by the court, will, in accordance with the provisions of ~~this act~~ K.S.A. 26-501 *et seq., and amendments thereto*, hold a public hearing on all matters pertaining to their appraisal of compensation and the assessment of damages for the taking of the lands or interests therein sought to be taken by the plaintiff in the above entitled matter covering the following described lands (description of lands). Such hearing will commence at _____ o'clock _____M. on the _____ day of _____, ~~19 (year)~~ _____ at _____, or on the following day without further notice, and may be continued thereafter from day to day or place to place until the same is concluded with respect to all properties involved in the action. Any party may *appear in person or by an attorney and may present either oral or written testimony by the landowner or other witnesses* at such hearing.

You are further notified that the court has set the _____ day of _____, ~~19 (year)~~ _____, for the filing of the awards of these appraisers with the clerk of the court, and any party dissatisfied with the award may appeal therefrom as by law permitted within ~~thirty~~ 30 days from the day of filing.

_____ Appraisers.

Sec. 2. K.S.A. 26-508 is hereby amended to read as follows: 26-508. If the plaintiff, or any defendant, is dissatisfied with the award of the appraisers, ~~he may,~~ such party, within ~~thirty (30)~~ 30 days after the filing of the appraisers' report, *may* appeal from the award by filing a written notice of appeal with the clerk of the district court *and paying the docket fee of a new court action.* In the event any parties shall perfect an appeal, copies of such notice of appeal shall be mailed to all parties affected by such appeal, within three ~~(3)~~ days after the date of the perfection thereof. An appeal by the plaintiff or any defendant shall bring the issue of damages to all ~~interest~~ interests in the tract before the court for trial *de novo.* The appeal shall be docketed as a *new* civil action and tried as any other civil action: ~~Provided, however, The only issue to be determined therein shall be that of just compensation to be paid for the land or right therein taken at the time of the taking and for any other damages allowable by law. The only issue to be determined therein shall be the compensation required by K.S.A. 26-513, and amendments thereto.~~

Sec. 3. K.S.A. 58-3502 is hereby amended to read as follows: 58-3502. Whenever any program or project is undertaken by the state of Kansas, any agency or political subdivision thereof, under which federal

financial assistance will be available to pay all or part of the cost of such program by reason of a grant from or contract or agreement with the federal government, and which program or project will result in the displacement of any person by acquisition of real property, or by the direct result of building code enforcement activities, rehabilitation or demolition programs, the state, agency, or political subdivision ~~may~~ *shall*:

(1) Provide fair and reasonable relocation payments and assistance to or for displaced persons as are required under sections 202, 203 and 204 of the federal act;

(2) Provide relocation assistance programs offering to displaced persons and others occupying property immediately adjacent to the real property acquired, the services described in section 205 of the federal act on the conditions prescribed therein;

(3) In acquiring the real property be guided to the greatest extent practicable under state law by the land acquisition policies in section 301 and the provisions of section 302 of the federal act;

(4) Pay or reimburse property owners for necessary expenses as specified in sections 303 and 304 of the federal act;

(5) Share costs of providing payments and assistance with the federal government in the manner and to the extent required by sections 211 (a) and (b) of the federal act; and

(6) Appoint such officers, enter into such contracts, utilize federal funds for planning and providing comparable replacement housing, and take such other actions as may be necessary to comply with the conditions and requirements of the federal act.

New Sec. 4. Whenever federal funding is not involved, and real property is acquired by any condemning authority through negotiation in advance of a condemnation action or through a condemnation action, and which acquisition will result in the displacement of any person, the condemning authority shall:

(a) Provide the displaced person, as defined in the federal uniform relocation assistance and real property acquisition policies act of 1970, fair and reasonable relocation payments and assistance to or for displaced persons.

(b) Fair and reasonable relocation payments and assistance to or for displaced persons as provided under sections 202, 203 and 204 of the federal uniform relocation assistance and real property acquisition policies act of 1970, and amendments thereto, shall be deemed fair and reasonable relocation payments and assistance pursuant to this section.

(c) Nothing in this section shall preclude the voluntary negotiation of fair and reasonable relocation payments and assistance between the displaced person and condemning authority. If such negotiations lead to agreement between the displaced person and the condemning authority, that agreement shall be deemed fair and reasonable.

Sec. 5. K.S.A. 26-506, 26-508, 58-3502 and 58-3505 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.