

As Amended by House Committee

Session of 2004

SENATE BILL No. 421

By Senator Vratil

2-2

10 AN ACT concerning eminent domain; relating to the filing of the ap-
11 praisers' report; **concerning relocation assistance**; amending K.S.A.
12 26-504 **and K.S.A. 2003 Supp. 58-3502** and repealing the existing
13 ~~section~~ **sections**.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. K.S.A. 26-504 is hereby amended to read as follows: 26-
17 504. If the judge to whom the proceeding has been assigned finds from
18 the petition: (1) The plaintiff has the power of eminent domain; and (2)
19 the taking is necessary to the lawful corporate purposes of the plaintiff,
20 the judge shall entertain suggestions from any party in interest relating
21 to the appointment of appraisers and the judge shall enter an order ap-
22 pointing three disinterested residents of the county in which the petition
23 is filed, at least two of the three of whom shall have experience in the
24 valuation of real estate, to view and appraise the **compensation and**
25 value of the lots and parcels of land found to be necessary, and to deter-
26 mine the damages to the interested parties resulting from the taking. Such
27 order shall also fix the time for the filing of the appraisers' report at a
28 time not later than ~~20~~ 45 days after the entry of such order except for
29 good cause shown, the court may extend the time for filing by a subse-
30 quent order. The granting of an order determining that the plaintiff has
31 the power of eminent domain and that the taking is necessary to the lawful
32 corporate purposes of the plaintiff shall not be considered a final order
33 for the purpose of appeal to the supreme court, but an order denying the
34 petition shall be considered such a final order.

35 Appeals to the supreme court may be taken from any final order under
36 the provisions of this act. Such appeals shall be prosecuted in like manner
37 as other appeals and shall take precedence over other cases, except cases
38 of a like character and other cases in which preference is granted by
39 statute.

40 **Sec. 2. K.S.A. 2003 Supp. 58-3502 is hereby amended to read**
41 **as follows: 58-3502. Whenever any program or project is under-**
42 **taken by the state of Kansas, any agency or political subdivision**
43 **thereof, under which federal financial assistance will be available**

1 to pay all or part of the cost of such program by reason of a grant
2 from or contract or agreement with the federal government, and
3 which program or project will result in the displacement of any
4 person by acquisition of real property, or by the direct result of
5 building code enforcement activities, rehabilitation or demolition
6 programs, the state, agency, or political subdivision shall:

7 (1) Provide fair and reasonable relocation payments and assis-
8 tance to or for displaced persons as are required under sections
9 202, 203 and 204 of the federal act;

10 (2) provide relocation assistance programs offering to dis-
11 placed persons and others occupying property immediately adja-
12 cent to the real property acquired, the services described in sec-
13 tion 205 of the federal act on the conditions prescribed therein;

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

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

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

22 (6) appoint such officers, enter into such contracts, utilize fed-
23 eral funds for planning and providing comparable replacement
24 housing, and take such other actions as may be necessary to comply
25 with the conditions and requirements of the federal act; *and*

26 (7) *under circumstances where a displaced person demonstrates that*
27 *receipt of such payments in advance of the actual relocation is required*
28 *to enable the relocation and estimates are provided by the displaced per-*
29 *son to the state, agency or political subdivision that will allow such gov-*
30 *ernmental entity to estimate with reasonable accuracy the relocation pay-*
31 *ments, 75% of such amount shall be advanced to the displaced person or*
32 *paid to third parties on behalf of the displaced person to facilitate the*
33 *relocation. Any remaining payment due shall be made within 30 days*
34 *after the relocation has been completed.*

35 **New Sec. 3. (a) Whenever federal funding is not involved, real**
36 **property is acquired by any condemning authority through nego-**
37 **tiation in advance of a condemnation action or through a condem-**
38 **nation action and the acquisition will result in the displacement of**
39 **any person, the condemning authority shall:**

40 (1) Provide the displaced person, as defined in the federal uni-
41 form relocation assistance and real property acquisition policies
42 act of 1970, and amendments thereto, fair and reasonable relo-
43 cation payments and assistance to or for displaced persons.

1 (2) Fair and reasonable relocation payments and assistance to
2 or for displaced persons as provided under sections 202, 203 and
3 204 of the federal uniform relocation assistance and real property
4 acquisition policies act of 1970, and amendments thereto, shall be
5 deemed fair and reasonable relocation payments and assistance
6 pursuant to this section.

7 (3) Nothing in this section shall preclude the voluntary nego-
8 tiation of fair and reasonable relocation payments and assistance
9 between the displaced person and condemning authority. If such
10 negotiations lead to agreement between the displaced person and
11 the condemning authority, that agreement shall be deemed fair
12 and reasonable.

13 (4) Under circumstances where a displaced person demon-
14 strates that receipt of such payments, in advance of the actual re-
15 location, is required to enable the relocation and estimates are
16 provided by the displaced person to the condemning authority that
17 will allow such authority to estimate with reasonable accuracy the
18 relocation payments, 75% of such amount shall be advanced to the
19 displaced person or paid to third parties on behalf of the displaced
20 person to facilitate the relocation. Any remaining payment due will
21 be made within 30 days after the relocation has been completed.

22 (b) This section shall be a part of and supplemental to article
23 35 of chapter 58 of the Kansas Statutes Annotated, and amend-
24 ments thereto.

25 New Sec. 4. (a) Any displaced person entitled to benefits un-
26 der this article may appeal by written notice to the state, agency
27 or political subdivision a determination of relocation payments. If
28 such an appeal is made to the state, agency or political subdivision
29 within 60 days of the receiving notice of the determination being
30 appealed, an independent hearing examiner shall be appointed by
31 the state, agency or political subdivision within 10 days and a de-
32 termination of the appeal made within 60 days. Any party wishing
33 to appeal the ruling of the hearing examiner may do so by filing a
34 written notice of appeal with the clerk of the district court within
35 30 days of the hearing examiner's decision. In the event any parties
36 shall perfect an appeal to district court, copies of such notice of
37 appeal shall be mailed to all parties affected by such appeal within
38 three days after the date of perfection thereof. Any such appeal to
39 district court shall be a trial de novo only on the issue of relocation
40 benefits.

41 (b) This section shall be a part of and supplemental to article
42 35 of chapter 58 of the Kansas Statutes Annotated, and amend-
43 ments thereto.

- 1 Sec. ~~2.~~ **5.** K.S.A. 26-504 ~~is~~ **and K.S.A. 2003 Supp. 58-3502 are**
- 2 hereby repealed.
- 3 Sec. ~~3.~~ **6.** This act shall take effect and be in force from and after its
- 4 publication in the statute book.