

Senate Bill 402

By: Senators Seabaugh of the 28th, Balfour of the 9th, Cagle of the 49th, Stephens of the 51st, Mullis of the 53rd and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 2 of Title 22 of the Official Code of Georgia Annotated,  
2 relating to proceedings before a special master, so as to provide for inverse condemnation  
3 proceedings before a special master; to change certain provisions regarding definitions; to  
4 provide for procedures, conditions, and limitations; to provide for damages; to provide for  
5 related matters; to provide an effective date; to repeal conflicting laws; and for other  
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 2 of Title 22 of the Official Code of Georgia Annotated, relating to  
10 proceedings before a special master, is amended by striking Code Section 22-2-100, relating  
11 to definitions, and inserting in its place a new Code Section 22-2-100 to read as follows:

12 "22-2-100.

13 As used in this article, the term:

14 (1) 'Condemning body' or 'condemnor' means:

15 ~~(1)~~(A) The State of Georgia or any branch of the government of the State of Georgia;

16 ~~(2)~~(B) Any county or municipality of the State of Georgia;

17 ~~(3)~~(C) Any housing authority;

18 ~~(4)~~(D) Any other political subdivision of the State of Georgia which is vested with the  
19 power of eminent domain; and

20 ~~(5)~~(E) All other persons possessing the right or power of eminent domain.

21 (2) 'Inverse condemnor' means any entity referred to in paragraph (1) of this Code  
22 section in an inverse condemnation proceeding instituted by a condemnee under this  
23 article."



1 hearing before the special master shall take place not less than ten days nor more than 15  
 2 days after the date of service of the order. The order shall give such directions for notice  
 3 and the service thereof as are appropriate and as are consistent with this article, in such  
 4 manner as to provide most effectively an opportunity to all parties at interest to be heard.  
 5 It shall not be necessary to attach any other process to the petition except the order so  
 6 made, and the cause shall proceed as in rem.

7 (b) All such inverse condemnation proceedings before the special master shall be  
 8 conducted in substantially the same manner as otherwise provided in this article for  
 9 condemnation proceedings before a special master, except as otherwise provided in this  
 10 Code section.

11 (c)(1) In an inverse condemnation proceeding under this article, the condemnee shall be  
 12 entitled to recover the following damages:

13 (A) The fair market value of the property actually taken; and

14 (B) Any consequential damage to the remainder of the condemnee's property caused  
 15 by the taking.

16 (2) When a condemnor's actions have resulted in an inverse condemnation of the  
 17 condemnee's property, the measure of damages shall be the actual depreciation in market  
 18 value of the property resulting from the taking and the effect upon the property so that the  
 19 property owner may recover for the injury to such property which has already occurred.  
 20 In determining the market value of the property as of the date of the taking, relevant  
 21 factors include, but are not limited to, the general environmental condition of the  
 22 condemned property and the need for remediation. Losses occurring prior to the date of  
 23 taking shall be considered and are compensable in an inverse condemnation proceeding.  
 24 In particular, losses resulting from a previous taking with respect to the condemnee's  
 25 property are recoverable."

26 **SECTION 4.**

27 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 28 without such approval.

29 **SECTION 5.**

30 All laws and parts of laws in conflict with this Act are repealed.