

Senate Bill 460

By: Senators Jones of the 10th, Seay of the 34th, Butler of the 55th, Tate of the 38th, Brown of the 26th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 22 of the Official Code of Georgia Annotated, relating to eminent domain,
2 so as to require condemnors to negotiate in good faith; to require that special masters meet
3 certain qualifications; to permit the consideration of certain expenses and intangible values
4 in ascertaining the proper amount of compensation for property; to provide for the
5 consideration by the condemnor of alternative sites and options; to provide for related
6 matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 22 of the Official Code of Georgia Annotated, relating to eminent domain, is amended
10 by striking Code Section 22-1-7, relating to effect of failure to agree on compensation, and
11 inserting in lieu thereof a new Code Section 22-1-7 to read as follows:

12 "22-1-7.

13 (a) The condemnor shall negotiate in good faith with the owner of the property the
14 condemnor seeks to obtain prior to exercising the power of eminent domain to take such
15 property.

16 (b) The condemnor shall consider alternative sites suggested by the owner of the property
17 prior to exercising the power of eminent domain to take such property. The condemnor
18 shall also consider providing the landowner with other property in full or partial
19 compensation for the property sought to be taken.

20 (c) If the parties cannot agree upon the compensation to be paid, the same shall be assessed
21 and determined as provided in Article 1 of Chapter 2 of this title."

22 **SECTION 2.**

23 Said title is further amended by striking Code Section 22-2-62, relating to evidence to be
24 heard by assessors generally, and inserting in lieu thereof a new Code Section 22-2-62 to
25 read as follows:

1 "22-2-62.

2 (a) The assessors shall hear all evidence offered by either party as to the value of the
3 property or of any interest therein to be taken or used, the damages incurred by the owner
4 of the property or of any interest therein, and the benefits to the owner accruing from the
5 use of the property or interest by the condemnor.

6 (b) Prospective and consequential damages resulting from the taking may be considered
7 if such damages are plain and appreciable. Such damages may include the loss in value of
8 the goodwill of any business located on such property as a result of the taking and a
9 resulting need to relocate such business; the moving expenses incurred by the property
10 owner as a result of having to relocate a residence or business as a result of such taking;
11 and the cost of obtaining a comparable building, property, or dwelling having substantially
12 the same characteristics of the property sought to be taken.

13 (c) The increase of the value of the property or of any interest therein resulting from the
14 proposed public improvement may be considered, but in no case shall such estimated
15 increase deprive the owner of actual damages.

16 (d) In the estimation of the value of the property or other interest taken for public uses,
17 such valuation need not be restricted to the agricultural or productive qualities of the
18 property or interest, but inquiry may be made as to all other legitimate purposes to which
19 the property or interest could be appropriated."

20

SECTION 3.

21 Said title is further amended by striking Code Section 22-2-103, relating to the appointment
22 of a special master generally, and inserting in lieu thereof a new Code Section 22-2-103 to
23 read as follows:

24 "22-2-103.

25 The special master provided for in this article shall be appointed by the judge or judges of
26 the superior courts of each judicial circuit and shall discharge the duties provided for in this
27 article. Nothing contained in this article shall be construed as limiting the number of
28 special masters for the circuit, and any judge of the superior court may appoint a special
29 master for any particular case or cases. The special master so appointed must be a
30 competent attorney at law, be of good standing in his or her profession, ~~and~~ have at least
31 three years' experience in the practice of law, and shall have expertise in property
32 valuations appropriate to the type of property that is the subject of the condemnations that
33 come before him or her. ~~His~~ Such special master's relation and accountability to the court
34 shall be that of an auditor or master in the general practice existing in this state. ~~He~~ The
35 special master shall hold office at the pleasure of the judge and shall be removable at any
36 time with or without cause. Each special master shall take and file in the office of the clerk

1 of the superior court of the county in which the property or interest to be condemned is
2 situated, along with the order of his or her appointment, an oath or affidavit substantially
3 in the form prescribed in Code Section 22-2-105."

4 **SECTION 4.**

5 Said title is further amended by adding a new Code Section 22-2-109.1 to read as follows:

6 "22-2-109.1.

7 In addition to other factors allowed by law, in determining or estimating just and adequate
8 compensation to be paid to the owner of any property or interest condemned, consideration
9 shall also be given to any loss in value of the goodwill of any business located on such
10 property as a result of the taking and the resulting need to relocate such business; the
11 moving expenses incurred by the property owner as a result of having to relocate a
12 residence or business as a result of such taking; and the cost of obtaining a comparable
13 building, property, or dwelling having substantially the same characteristics of the property
14 sought to be taken."

15 **SECTION 5.**

16 Said title is further amended by adding a new Code Section 22-2-137.1 to read as follows:

17 "22-2-137.1.

18 In addition to other factors allowed by law, in determining or estimating just and adequate
19 compensation to be paid to the owner of any property or interest condemned, consideration
20 shall also be given to any loss in value of the goodwill of any business located on such
21 property as a result of the taking and the resulting need to relocate such business; the
22 moving expenses incurred by the property owner as a result of having to relocate a
23 residence or business as a result of such taking; and the cost of obtaining a comparable
24 building, property, or dwelling having substantially the same characteristics of the property
25 sought to be taken."

26 **SECTION 6.**

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