Eminent Domain Fair Compensation and Use Act

Eminent Domain Fair Compensation and Use Act

Section 1: Definitions

1. Public Use: "Public use" for purposes of eminent domain is strictly defined as projects that directly serve the health, safety, welfare, and infrastructure needs of the public. This includes:

- Government infrastructure projects (e.g., highways, public transportation systems, water treatment facilities, public parks, and government buildings).
- Public health and safety projects (e.g., hospitals, emergency services, and public utilities).
- Public education facilities (e.g., schools and libraries).

Private entities shall not be permitted to take land for projects intended for private profit or private development, including but not limited to shopping centers, corporate headquarters, or residential development projects not designed for public access.

2. Owner: Any individual or business entity that holds legal title to the property subject to eminent domain proceedings.

3. Fair Market Value (FMV): The value of the property as determined by a qualified, independent appraisal of the property, as established under the rules set forth in this Act.

Section 2: Compensation Requirements

1. Compensation for Property Owners:

- Compensation for the taking of land or real property under eminent domain shall be the greater of:
  - The value determined by the highest of three independent appraisals, multiplied by three (3x);

or

- The cost to relocate to comparable living conditions or property of similar size and quality within a defined radius of no more than fifty (50) miles from the current property, multiplied by three (3x).

Example: If the highest of three appraisals on a 100-acre farm is $500,000, but the cost to relocate to a comparable 100-acre farm within a 50-mile radius is $600,000, the compensation due shall be $1,800,000 (3x the cost of relocation).

Note: While the compensation is based on the cost to relocate to a similar property, the owner is not required to actually relocate to receive this compensation. The owner will be entitled to the higher compensation amount regardless of whether they choose to relocate.

2. Business Compensation:

- If the property taken is a business-owned building, the business shall be compensated in accordance with Section 1.

- For businesses leasing their building, compensation shall be three (3) times the annual lease amount.

- Lease Exception: Businesses that enter into a lease agreement after the public notice of eminent domain intent has been published shall not be entitled to compensation based on the lease agreement under this Act.

Section 3: Public Notice Requirements

1. Notice of Eminent Domain:

- The governing body initiating the eminent domain process shall provide clear and public notice of the intention to acquire property through eminent domain at least 60 days before any formal action is taken.

- The notice must include a description of the property, the purpose for which it is being taken, and

the compensation being offered.

2. Public Hearings:

- A public hearing must be held within 30 days of the publication of the notice, at which the public can provide testimony regarding the proposed taking and compensation.

- The governing body shall be required to address and document any concerns raised at the hearing before proceeding with the acquisition.

Section 4: Appeals Process

1. Right to Appeal:

- Property owners have the right to appeal the decision to exercise eminent domain within 30 days of receiving the notice. The appeal must be heard by an independent tribunal, and the owner may request a second appraisal if they dispute the initial appraised value.

2. Appeals Procedure:

- A formal written appeal must be filed with the governing body's office, including the basis for the dispute and any supporting evidence (e.g., additional appraisals, relocation costs).

- The governing body must respond within 30 days, and if the dispute is not resolved through negotiation, the appeal shall be heard in court.

Section 5: Project Timeline and Repurchase Rights

1. Timeline Requirement:

- The governing body that takes property for a project must provide a clear timeline for the completion of the project, including estimated start and end dates.

2. Failure to Complete Project:

- If the project is not completed within double the agreed-upon timeline, the original property owner

(or their heirs, including spouse and children) shall have the right to repurchase the land at current FMV minus 25%.

- Example: If a project is scheduled for completion within 10 years, the governing body must complete the project within 20 years. If not, the original owner or their heirs may repurchase the land at 75% of its current FMV.

Section 6: Accountability for the Governing Body

1. Incentive for Completion:

- To encourage timely project completion, the governing body shall be held accountable to fulfill the original project timeline. If the project exceeds the timeline, the governing body shall be required to return the property to the original owner or their heirs at the reduced price, as outlined in Section 5.

2. Penalties for Non-Compliance:

- In cases where the project is delayed beyond the permitted timeframe, the governing body shall also be subject to penalties, including the reimbursement of costs for the property owner's legal fees associated with the repurchase process.

Section 7: Effective Date

This Act shall take effect immediately upon passage and shall apply to all eminent domain proceedings initiated after its enactment.