

**SUBSTITUTE FOR  
SENATE BILL NO. 519**

A bill to amend 1980 PA 87, entitled  
"The uniform condemnation procedures act,"  
by amending section 5 (MCL 213.55), as amended by 1996 PA 474.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 5. (1) Before initiating negotiations for the purchase  
2 of property, the agency shall establish an amount that it  
3 believes to be just compensation for the property and promptly  
4 shall submit to the owner a good faith written offer to acquire  
5 the property for the full amount so established. If there is  
6 more than 1 owner of a parcel, the agency may make a single, uni-  
7 tary good faith written offer. The good faith offer shall state  
8 whether the agency reserves or waives its rights to bring federal  
9 or state cost recovery actions against the present owner of the  
10 property arising out of a release of hazardous substances at the  
11 property and the agency's appraisal of just compensation for the

**SB 519, As Passed Senate, May 18, 1999**

Senate Bill No. 519

2

1 property shall reflect such reservation or waiver. The amount  
2 shall not be less than the agency's appraisal of just compensa-  
3 tion for the property. If the owner fails to provide documents  
4 or information as required by subsection ~~-(2)-~~ (3), the agency  
5 may base its good faith written offer on the information other-  
6 wise known to the agency whether or not the agency has sought a  
7 court order under subsection ~~-(2)-~~ (3). The agency shall provide  
8 the owner of the property and the owner's attorney with an oppor-  
9 tunity to review the written appraisal, if an appraisal has been  
10 prepared, or if an appraisal has not been prepared, the agency  
11 shall provide the owner or the owner's attorney with a written  
12 statement and summary, showing the basis for the amount the  
13 agency established as just compensation for the property. If an  
14 agency is unable to agree with the owner for the purchase of the  
15 property, after making a good faith written offer to purchase the  
16 property, the agency may file a complaint for the acquisition of  
17 the property in the circuit court in the county in which the  
18 property is located. If a parcel of property is situated in 2 or  
19 more counties and an owner resides in 1 of the counties, the com-  
20 plaint shall be filed in the county in which the owner is a  
21 resident. If a parcel of property is situated in 2 or more coun-  
22 ties and an owner does not reside in 1 of the counties, the com-  
23 plaint may be filed in any of the counties in which the property  
24 is situated. The complaint shall ask that the court ascertain  
25 and determine just compensation to be made for the acquisition of  
26 the described property.

**SB 519, As Passed Senate, May 18, 1999**

Senate Bill No. 519

3

1           (2) If an agency made a good faith written offer pursuant to  
2 this section before January 28, 1994 ~~but has not~~ AND filed a  
3 complaint for acquisition of the property ON OR AFTER DECEMBER  
4 26, 1996, AND IF THE ACTION IS STILL PENDING, the agency may  
5 withdraw the good faith written offer FIRST SUBMITTED and resub-  
6 mit a REVISED good faith written offer. ~~that complies with this~~  
7 ~~act as amended.~~ HOWEVER, THE AMOUNT OF THE RESUBMITTED GOOD  
8 FAITH WRITTEN OFFER UNDER THIS SUBSECTION MAY DIFFER FROM THE  
9 AMOUNT OF THE WITHDRAWN GOOD FAITH WRITTEN OFFER ONLY TO THE  
10 EXTENT NECESSARY TO REFLECT THE RESERVATION OR WAIVER OF RIGHTS  
11 TO BRING A FEDERAL OR STATE COST RECOVERY ACTION ARISING OUT OF A  
12 RELEASE OF HAZARDOUS SUBSTANCES AT THE PROPERTY. If a REVISED  
13 good faith offer is resubmitted pursuant to this subsection,  
14 attorney fees under section 16 shall be based on the resubmitted  
15 good faith offer.

16           (3) ~~(2)~~ During the period in which the agency is estab-  
17 lishing just compensation for the owner's parcel, the agency has  
18 the right to secure tax returns, financial statements, and other  
19 relevant financial information for a period not to exceed 5 years  
20 before the agency's request. The owner shall produce the infor-  
21 mation within 21 business days after receipt of a written request  
22 from the agency. The agency shall reimburse the owner for  
23 actual, reasonable costs incurred in reproducing any requested  
24 documents, plus other actual, reasonable costs of not more than  
25 \$1,000.00 incurred to produce the requested information. Within  
26 45 days after production of the requested documents and other  
27 information, the owner shall provide to the agency a detailed

**SB 519, As Passed Senate, May 18, 1999**

Senate Bill No. 519

4

1 invoice for the costs of reproduction and other costs sought.  
2 The owner is not entitled to a reimbursement of costs under this  
3 subsection if the reimbursement would be duplicative of any other  
4 reimbursement to the owner. If the owner fails to provide all  
5 documents and other information requested by the agency under  
6 this section, the agency may file a complaint and proposed order  
7 to show cause in the circuit court in the county specified in  
8 subsection (1). The court shall immediately hold a hearing on  
9 the agency's proposed order to show cause. The court shall order  
10 the owner to provide documents and other information requested by  
11 the agency that the court finds to be relevant to a determination  
12 of just compensation. An agency shall keep documents and other  
13 information that an owner provides to the agency under this sec-  
14 tion confidential. However, the agency and its experts and rep-  
15 resentatives may utilize the documents and other information to  
16 determine just compensation, may utilize the documents and other  
17 information in legal proceedings under this act, and may utilize  
18 the documents and other information as provided by court order.  
19 If the owner unreasonably fails to timely produce the documents  
20 and other information, the owner shall be responsible for all  
21 expenses incurred by the agency in obtaining the documents and  
22 other information. This section does not affect any right a  
23 party may otherwise have to discovery or to require the produc-  
24 tion of documents and other information upon commencement of an  
25 action under this act. A copy of this section shall be provided  
26 to the owner with the agency's request.

**SB 519, As Passed Senate, May 18, 1999**

Senate Bill No. 519

5

1       (4) ~~—(3)—~~ If an owner believes that the good faith written  
2 offer made under subsection (1) did not include or fully include  
3 1 or more items of compensable property or damage for which the  
4 owner intends to claim a right to just compensation, the owner  
5 shall, for each item, file a written claim with the agency. The  
6 owner's written claim shall provide sufficient information and  
7 detail to enable the agency to evaluate the validity of the claim  
8 and to determine its value. The owner shall file all such claims  
9 within 90 days after the good faith written offer is made pursu-  
10 ant to ~~section 5(1)~~ SUBSECTION (1) or 60 days after the com-  
11 plaint is filed, whichever is later. Within 60 days after the  
12 date the owner files a written claim with the agency, the agency  
13 may ask the court to compel the owner to provide additional  
14 information to enable the agency to evaluate the validity of the  
15 claim and to determine its value. For good cause shown, the  
16 court shall, upon motion filed by the owner, extend the time in  
17 which claims may be made, if the rights of the agency are not  
18 prejudiced by the delay. Only 1 such extension may be granted.  
19 After receiving a written claim from an owner, the agency may  
20 provide written notice that it contests the compensability of the  
21 claim, establish an amount that it believes to be just compensa-  
22 tion for the item of property or damage, or reject the claim. If  
23 the agency establishes an amount it believes to be just compensa-  
24 tion for the item of property or damage, the agency shall submit  
25 a good faith written offer for the item of property or damage.  
26 The sum of the good faith written offer for all such items of  
27 property or damage plus the original good faith written offer

1 constitutes the good faith written offer for purposes of  
2 determining the maximum reimbursable attorney fees under section  
3 16. If an owner fails to file a timely written claim under this  
4 subsection, the claim is barred. If the owner files a claim that  
5 is frivolous or in bad faith, the agency is entitled to recover  
6 from the owner its actual and reasonable expenses incurred to  
7 evaluate the validity and to determine the value of the claim.

8 (5) ~~(4)~~ In addition to other allegations required or per-  
9 mitted by law, the complaint shall contain or have annexed to it  
10 all of the following:

11 (a) A plan showing the property to be taken.

12 (b) A statement of purpose for which the property is being  
13 acquired, and a request for other relief to which the agency is  
14 entitled by law.

15 (c) The name of each known owner of the property being  
16 taken.

17 (d) A statement setting forth the time within which motions  
18 for review under section 6 shall be filed; the amount that will  
19 be awarded and the persons to whom the amount will be paid in the  
20 event of a default; and the deposit and escrow arrangements made  
21 under subsection ~~(5)~~ (6).

22 (e) A declaration signed by an authorized official of the  
23 agency declaring that the property is being taken by the agency.  
24 The declaration shall be recorded with the register of deeds of  
25 each county within which the property is situated. The declara-  
26 tion shall include all of the following:

**SB 519, As Passed Senate, May 18, 1999**

Senate Bill No. 519

7

1       (i) A description of the property to be acquired sufficient  
2 for its identification and the name of each known owner.

3       (ii) A statement of the estate or interest in the property  
4 being taken. Fluid mineral and gas rights and rights of access  
5 to and over the highway are excluded from the rights acquired  
6 unless the rights are specifically included.

7       (iii) A statement of the sum of money estimated by the  
8 agency to be just compensation for each parcel of property being  
9 acquired.

10       (iv) Whether the agency reserves or waives its rights to  
11 bring federal or state cost recovery actions against the present  
12 owner of the property.

13       (6) ~~-(5)-~~ When the complaint is filed, the agency shall  
14 deposit the amount estimated to be just compensation with a bank,  
15 trust company, or title company in the business of handling real  
16 estate escrows, or with the state treasurer, municipal treasurer,  
17 or county treasurer. The deposit shall be set aside and held for  
18 the benefit of the owners, to be disbursed upon order of the  
19 court under section 8.