



# House of Representatives

General Assembly

**File No. 7**

*January Session, 2001*

Substitute House Bill No. 5916

*House of Representatives, February 21, 2001*

The Committee on Transportation reported through REP. COCCO of the 127th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING CONSIDERATION OF ENVIRONMENTAL  
REMEDATION COSTS IN DETERMINING FAIR MARKET VALUE OF  
PROPERTY ACQUIRED BY THE COMMISSIONER OF  
TRANSPORTATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 13a-76 of the general statutes is repealed and the  
2 following is substituted in lieu thereof:

3 Any person claiming to be aggrieved by the assessment of such  
4 special damages or such special benefits by the commissioner may, at  
5 any time within six months after the same has been so filed, apply to  
6 the superior court for the judicial district within which such land is  
7 situated or, if said court is not in session, to any judge thereof for a  
8 reassessment of such damages or such benefits so far as the same affect  
9 such applicant, and said court or such judge, after causing notice of the  
10 pendency of such application to be given to said commissioner, shall  
11 appoint a judge trial referee to make such reassessment of such  
12 damages or such benefits. Such trial referee, having given at least ten

13 days' notice to the parties interested of the time and place of hearing,  
14 shall hear the applicant and said commissioner, shall view the land  
15 and take such testimony as such trial referee deems material and shall  
16 thereupon reassess such damages and benefits so far as they affect  
17 such applicant. The reassessment of such trial referee shall take into  
18 account any evidence relevant to the fair market value of the property,  
19 including evidence of required environmental remediation. Such trial  
20 referee shall make a separate finding for remediation costs, and the  
21 property owner shall be entitled to a set-off of such costs in any  
22 pending or subsequent action to recover remediation costs for the  
23 property. If the amount of the reassessment of such damages awarded  
24 to any such property owner exceeds the amount of the assessment of  
25 such damages by the commissioner for such land, such trial referee  
26 shall award to such property owner such appraisal fees as such trial  
27 referee determines to be reasonable. If no appeal to the Appellate  
28 Court is filed within the time allowed by law, or if one is filed and the  
29 proceedings have terminated in a final judgment finding the amount  
30 due the landowner, the clerk shall send a certified copy of the  
31 assessment of the commissioner and of the judgment to the  
32 Comptroller, who shall, upon receipt thereof, draw [his] an order upon  
33 the Treasurer in favor of the landowner for the amount due [him] the  
34 landowner as damages. The pendency of any such application for  
35 reassessment shall not prevent or delay the layout, extension,  
36 alteration, widening, change of grade or other improvement of any  
37 such highway. As used in this section, a trial referee means a referee  
38 appointed pursuant to subdivision (1) or (2) of subsection (a) of section  
39 52-434 and designated a trial referee pursuant to subsection (b) of said  
40 section.

41       Sec. 2. This act shall take effect from its passage.

**TRA       JOINT FAVORABLE SUBST.**

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** Potential Significant Cost Savings (Bond Funds)

**Affected Agencies:** Department of Transportation (A Special Fund)

**Municipal Impact:** None

**Explanation**

**State Impact:**

This legislation requires a state trial referee to take into consideration required environmental remediation costs in determining the fair market value of property acquired by the Commissioner of Transportation. These situations mostly occur when the appeal involves industrial or commercial property such as a gas station, a dry cleaning business, etc. and the property has been acquired by eminent domain.

It is difficult to state exact cost savings to the department, since the cost savings would largely depend on: 1) the type and size of the business, 2) the location of the business, 3) the extent of contamination and 4) the cost of the remediation. For instance, remediation costs involving a dry cleaning business could cost between \$100,000 to \$200,000; whereas remediation costs involving a land development project could run into the millions. The cost savings will be

experienced within the transportation bond funds.

***Municipal Impact:***

Since this legislation applies to property acquired by the Commissioner of Transportation for highway purposes, it appears that this legislation would not extend protection to municipalities. However, PA 00-89, which amended Section 8-132 of the general statutes, offers similar protection to redevelopment agencies. (Redevelopment agencies are created by municipalities with responsibilities over large projects such as housing authorities.)

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**OLR Bill Analysis**

sHB 5916

***AN ACT CONCERNING CONSIDERATION OF ENVIRONMENTAL REMEDIATION COSTS IN DETERMINING FAIR MARKET VALUE OF PROPERTY ACQUIRED BY THE COMMISSIONER OF TRANSPORTATION.*****SUMMARY:**

This bill requires a state trial referee making a final assessment of damages pursuant to a property owner's appeal of a Department of Transportation (DOT) damages award for property it has acquired through condemnation to consider any required environmental remediation along with other relevant evidence of the property's fair market value. It requires the referee to make a separate finding for remediation costs and entitles the property owner to a set-off of these costs in any pending or subsequent action to recover environmental remediation costs.

The bill's requirements are similar to those PA 00-89 applies to eminent domain property acquisitions by redevelopment agencies.

EFFECTIVE DATE: Upon passage

**BACKGROUND*****DOT Property Acquisition Through Condemnation***

DOT has a separate statutory authority to acquire property through eminent domain. If it requires someone's property for transportation purposes and cannot reach a voluntary purchase agreement with the owner, it can take the property through this special condemnation process. DOT must file a certificate of taking with the court that identifies the property and assesses the damages due the property owner as a result. Once the certificate is filed, title to the property passes to the state. The former property owner cannot challenge the taking, but, if aggrieved by the damages assessed, he has six months to appeal to the Superior Court for a reassessment. Once an appeal is

properly filed, the court must appoint a trial referee to perform the reassessment.

**COMMITTEE ACTION**

Transportation Committee

Joint Favorable Substitute

Yea 28 Nay 0