



General Assembly

Amendment

January Session, 2007

LCO No. 8548

SB0016708548SRO

Offered by:

SEN. FASANO, 34th Dist.

SEN. DELUCA, 32nd Dist.

SEN. MCKINNEY, 28th Dist.

SEN. CALIGIURI, 16th Dist.

SEN. CAPIELLO, 24th Dist.

SEN. DEBICELLA, 21st Dist.

SEN. FREEDMAN, 26th Dist.

SEN. GUGLIELMO, 35th Dist.

SEN. HERLIHY, 8th Dist.

SEN. KISSEL, 7th Dist.

SEN. NICKERSON, 36th Dist.

SEN. RORABACK, 30th Dist.

To: Subst. Senate Bill No. 167

File No. 560

Cal. No. 449

(As Amended)

"AN ACT REVISING THE PROCESS FOR THE TAKING OF REAL PROPERTY BY MUNICIPALITIES FOR REDEVELOPMENT AND ECONOMIC DEVELOPMENT."

1 Strike subdivision (2) of subsection (a) of section 8 in its entirety and
2 substitute the following in lieu thereof:

3 "(2) The redevelopment agency shall pay the reasonable cost of two
4 independent appraisals conducted on the real property. One of the
5 appraisers shall be selected by the redevelopment agency and one shall
6 be selected by the property owner. Each appraiser shall provide a copy
7 of the appraisal to the redevelopment agency and the property owner.
8 The Ombudsman for Property Rights shall select the appraisal to be
9 used to determine the amount of compensation, which shall be the

10 appraisal which is closest to the fair market value of the property. The
11 amount of compensation shall be one hundred per cent of the fair
12 market value, reduced by reasonably foreseeable environmental clean-
13 up costs, and increased by reasonable attorney fees and costs, except
14 that the amount of compensation for residential property or owner-
15 occupied commercial property in substantial compliance with building
16 and housing codes shall be one hundred twenty-five per cent of the
17 fair market value. If acquisition of the property is more than five years
18 after the date of adoption of the initial plan, such amount shall be
19 increased by five per cent each year until ten years after the date of
20 adoption of the initial plan. If there is an active business on the
21 property, upon a finding by the Ombudsman for Property Rights that
22 the good will of the business cannot be transferred, the amount of
23 compensation shall be one hundred per cent of fair market value and
24 shall be adjusted to reflect lost good will. The ombudsman shall
25 determine and quantify the amount of such adjustment. The owner of
26 the business may appeal the amount of the adjustment to the superior
27 court for the judicial district in which such business is located. For
28 purposes of this subsection, "good will" means the benefits that accrue
29 to a business that are unique to its location. Each appraisal shall be
30 conducted by a state certified real estate appraiser without
31 consultation with the appraiser conducting the other independent
32 appraisal, and shall be conducted in accordance with generally
33 accepted standards of professional appraisal practice as described in
34 the Uniform Standards of Professional Appraisal Practice issued by the
35 Appraisal Standards Board of the Appraisal Foundation pursuant to
36 Title XI of FIRREA and any regulations adopted pursuant to section
37 20-504."

38 Strike subsection (c) of section 13 in its entirety and substitute the
39 following in lieu thereof:

40 "(c) Any displaced person eligible for payments under subsection (a)
41 of this section who is displaced from [his] the person's place of
42 business or from [his] the person's farm operation and who elects to
43 accept the payment authorized by this subsection in lieu of the

44 payment authorized by subsection (a) of this section, may receive a
45 fixed payment in an amount equal to the average annual net earnings
46 of the business or farm operation, except that such payment shall not
47 be less than two thousand five hundred dollars nor more than ten
48 thousand dollars. In the case of a business, (1) no payment shall be
49 made under this subsection unless the state agency is satisfied that the
50 business [(1)] (A) cannot be relocated without a substantial loss of its
51 existing patronage, and [(2)] (B) is not a part of a commercial enterprise
52 having at least one other establishment not being acquired by the state,
53 which is engaged in the same or similar business; and (2) payments
54 under this subsection shall be adjusted to reflect any increase or
55 decrease in good will and such increase or decrease in good will shall
56 be calculated separately. For purposes of this subsection, [the term]
57 "average annual net earnings" means one half of any net earnings of
58 the business or farm operation, before federal, state and local income
59 taxes, during the two taxable years immediately preceding the taxable
60 year in which such business or farm operation moves from the real
61 property acquired for such project, or during such other period as such
62 agency determines to be more equitable for establishing such earnings,
63 and includes any compensation paid by the business or farm operation
64 to the owner, [his] the owner's spouse or [his] the owner's dependents
65 during such period; and "good will" means the benefits that accrue to a
66 business that are unique to its location."

67 After the last section, add the following and renumber sections and
68 internal references accordingly:

69 "Sec. 501. Section 48-50 of the general statutes is repealed and the
70 following is substituted in lieu thereof (*Effective from passage*):

71 (a) There is established an Office of Ombudsman for Property
72 Rights which shall be within the Office of Policy and Management for
73 administrative purposes only. The Office of Ombudsman for Property
74 Rights shall be under the direction of an Ombudsman for Property
75 Rights who shall be appointed in accordance with section 48-51.

76 (b) The Office of Ombudsman for Property Rights shall:

77 (1) Develop and maintain expertise in, and understanding of, the
78 (A) provisions of the federal and state constitutions governing the
79 taking of private property and provisions of state law authorizing a
80 public agency to take private property, and (B) case law interpreting
81 such provisions;

82 (2) At the request of a public agency, assist the public agency in
83 applying constitutional and statutory provisions concerning eminent
84 domain;

85 (3) At the request of a public agency, provide assistance in
86 analyzing actions that have potential eminent domain implications;

87 (4) At the request of a private property owner, provide assistance
88 concerning eminent domain procedures;

89 (5) Identify state or local governmental actions that have potential
90 eminent domain implications and, if appropriate, advise the
91 appropriate public agency about such implications;

92 (6) Provide information to private citizens, civic groups and other
93 interested parties about eminent domain law and their rights with
94 respect to eminent domain;

95 (7) Mediate disputes between private property owners and public
96 agencies concerning the use of eminent domain or related relocation
97 assistance as provided in section 48-52, and the Office of Ombudsman
98 for Property Rights may, within available appropriations, hire an
99 independent real estate appraiser to assist in such mediation; [and]

100 (8) Recommend to the General Assembly changes that, in the
101 opinion of the Ombudsman for Property Rights, should be made to the
102 general statutes related to eminent domain powers and procedures;
103 and

104 (9) Select the appraisal to be used to determine and quantify the

105 amount of compensation to property owners, pursuant to section 8-
106 129, as amended by this act, for property acquired by eminent domain
107 by a redevelopment agency under section 8-128, as amended by this
108 act.

109 (c) For the purposes of this section and sections 48-51 to 48-57,
110 inclusive, "public agency" means a public agency, as defined in section
111 1-200, with the power to acquire property through eminent domain
112 and includes an entity authorized to acquire property through eminent
113 domain on behalf of the public agency."