



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4248

Introduced 1/16/2024, by Rep. Jed Davis

SYNOPSIS AS INTRODUCED:

735 ILCS 30/10-5-60

was 735 ILCS 5/7-121

Amends the Eminent Domain Act. Provides that when calculating the fair cash market value of a business property, the value shall include any positive revenue the property would generate for the business during a 10-year period, as evidenced by the business's tax returns. Requires the prospective beneficiary to submit an affidavit describing (i) the current cash value of the property, (ii) the current cash flow generated by the property, if any, and (iii) the expected cash flow to be generated by the property at a point 5 years forward. Provides that if a prospective beneficiary is admitted to the program, the beneficiary or the beneficiary's successor-in-interest shall refile an affidavit describing the current cash value and cash flow of the property. Provides that if an affidavit is filed in bad faith, the filer is subject to penalties and interest equivalent to what the filer would have owed in the case of underpayment of income taxes in the same amount at the same point in time.

LRB103 34786 LNS 64637 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Eminent Domain Act is amended by changing
5 Section 10-5-60 as follows:

6 (735 ILCS 30/10-5-60) (was 735 ILCS 5/7-121)

7 Sec. 10-5-60. Value. Except as to property designated as
8 possessing a special use, the fair cash market value of
9 property in a proceeding in eminent domain shall be the amount
10 of money that a purchaser, willing, but not obligated, to buy
11 the property, would pay to an owner willing, but not obliged,
12 to sell in a voluntary sale.

13 When calculating the fair cash market value of a business
14 property, the value shall include any positive revenue the
15 property would generate for the business during a 10-year
16 period, as evidenced by the business's tax returns. The
17 prospective beneficiary shall submit an affidavit describing,
18 under penalty of perjury, (i) the current cash value of the
19 property, (ii) the current cash flow generated by the
20 property, if any, and (iii) the expected cash flow to be
21 generated by the property at a point 5 years forward. If a
22 prospective beneficiary is admitted to the program, the
23 beneficiary or the beneficiary's successor-in-interest shall

1 refile an affidavit describing the current cash value and cash
2 flow of the property. If the 2 numbers match, the benefit is
3 good. If the numbers do not match, a make-up payment must be
4 made to reflect the changed value of the property from what the
5 parties believed it was when the eminent domain took place. If
6 an affidavit is filed in bad faith, the filer is subject to
7 penalties and interest equivalent to what the filer would have
8 owed in the case of underpayment of income taxes in the same
9 amount at the same point in time.

10 For the acquisition or damaging of property under the
11 O'Hare Modernization Act, the amount shall be determined as of
12 the date of filing the complaint to condemn. For the
13 acquisition of other property, the amount shall be determined
14 and ascertained as of the date of filing the complaint to
15 condemn, except that:

16 (i) in the case of property not being acquired under
17 Article 20 (quick-take), if the trial commences more than
18 2 years after the date of filing the complaint to condemn,
19 the court may, in the interest of justice and equity,
20 declare a valuation date no sooner than the date of filing
21 the complaint to condemn and no later than the date of
22 commencement of the trial; and

23 (ii) in the case of property that is being acquired
24 under Article 20 (quick-take), if the trial commences more
25 than 2 years after the date of filing the complaint to
26 condemn, the court may, in the interest of justice and

1 equity, declare a valuation date no sooner than the date
2 of filing the complaint to condemn and no later than the
3 date on which the condemning authority took title to the
4 property.

5 In the condemnation of property for a public improvement,
6 there shall be excluded from the fair cash market value of the
7 property any appreciation in value proximately caused by the
8 improvement and any depreciation in value proximately caused
9 by the improvement. However, such appreciation or depreciation
10 shall not be excluded when property is condemned for a
11 separate project conceived independently of and subsequent to
12 the original project.

13 (Source: P.A. 94-1055, eff. 1-1-07.)