

**SUBSTITUTE FOR
HOUSE BILL NO. 5820**

A bill to amend 1980 PA 87, entitled
"The uniform condemnation procedures act,"
by amending section 8 (MCL 213.58), as amended by 1996 PA 474.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8. (1) Except as provided in subsections (2) and (3), if
2 a motion for review under section 6 is not filed or is denied and
3 the right to appeal has terminated or if interim possession is
4 granted under section 9, the court shall order the escrowee to pay
5 the money deposited under section 5 for or on account of the just
6 compensation that may be awarded under section 13. Except as
7 provided in subsections (2) and (3), if a motion for review under
8 section 6 is not filed, the court shall, within 30 days, order the
9 escrowee to pay the money deposited under section 5 for or on
10 account of the just compensation that may be awarded under section

1 13. Upon the motion of any party, the court shall apportion the
2 estimated compensation among the claimants to the compensation.

3 (2) ~~If~~ **EXCEPT AS PROVIDED IN SUBSECTION (5), IF** the agency
4 reserves its rights to bring a state or federal cost recovery claim
5 against an owner, under circumstances that the court considers
6 just, the court may allow any portion of the money deposited under
7 section 5 to remain in escrow as security for remediation costs of
8 environmental contamination on the condemned parcel. An agency
9 shall present an affidavit and environmental report establishing
10 that the funds placed on deposit under section 5 are likely to be
11 required to remediate the property. The amount in escrow shall not
12 exceed the likely costs of remediation if the property were used
13 for its highest and best use. This subsection does not limit or
14 expand an owner's or agency's rights to bring federal or state cost
15 recovery claims.

16 (3) Notwithstanding any order entered by the court requiring
17 money deposited pursuant to section 5 to remain in escrow for the
18 payment of estimated remediation costs of contaminated property,
19 the funds in escrow, plus interest subject to section 15, shall be
20 released among the claimants to the just compensation under
21 circumstances that the court considers just, including any of the
22 following circumstances:

23 (a) The court finds that the applicable statutory requirements
24 for remediation have changed and the amount remaining in escrow is
25 no longer required in full or in part to remediate the alleged
26 environmental contamination.

27 (b) The court finds that the anticipated need for the

1 remediation of the alleged environmental contamination is not
2 required or is not required to the extent of the funds remaining on
3 deposit.

4 (c) If the remediation of the property is not initiated by the
5 agency within 2 years of surrender of possession pursuant to
6 section 9 and the agency is unable to show good cause for delay.

7 (d) The costs actually expended for remediation are less than
8 the estimated costs of remediation or less than the amount of money
9 remaining in escrow.

10 (e) A court issues an order of apportionment of remediation
11 responsibility.

12 (4) If the court orders the agency to reverse its election
13 under section 6a(1), the court shall order the escrowee to pay the
14 amount of the revised good faith written offer for or on account of
15 the just compensation that may be awarded pursuant to section 13,
16 and to pay the balance of the escrow to the agency. If the agency
17 seeks possession before the court decides whether to reverse the
18 agency's election or before submitting a revised good faith offer,
19 the agency may request that the court order a portion of the escrow
20 withheld in anticipation of a reduction in the revised good faith
21 offer, with the balance to be paid by the escrowee for or on
22 account of the just compensation that may be awarded pursuant to
23 section 13. If the court denies the request to reverse the agency's
24 election or when the revised good faith offer is submitted, the
25 court shall order the escrowee to pay any unpaid portion of it for
26 or on account of the owner and to pay any balance to the agency.

27 (5) SUBSECTIONS (2) AND (3) DO NOT APPLY TO MONEY DEPOSITED

1 UNDER SECTION 5 IN ESCROW FOR THE PAYMENT OF JUST COMPENSATION FOR
2 A PROPERTY THAT IS A RESIDENTIAL DWELLING. AS USED IN THIS
3 SUBSECTION, "RESIDENTIAL DWELLING" MEANS AN IMPROVED PROPERTY THAT
4 IS ZONED RESIDENTIAL THAT CONSISTS OF A RESIDENCE NOT PRIMARILY
5 USED FOR COMMERCIAL OR RESIDENTIAL ACTIVITIES.

6 Enacting section 1. This amendatory act does not take effect
7 unless all of the following bills of the 93rd Legislature are
8 enacted into law:

- 9 (a) House Bill No. 5817.
10 (b) House Bill No. 5818.
11 (c) House Bill No. 5819.
12 (d) House Bill No. 5821.