

February 26, 1969

SENATE FILE 330

Passed on File

*See Judiciary 25, Page 4-1*

By COMMITTEE ON JUDICIARY

Passed Senate, Date *2-24-69* Passed House, Date *5-7-69*

Vote: Ayes *57* Nays *0* Vote: Ayes *100* Nays *2*

Approved *5-14-69*

## A BILL FOR

1 An Act relating to eminent domain.

2 *Be It Enacted by the General Assembly of the State of Iowa:*

3 Section 1. Section four hundred seventy-two point eighteen  
4 (472.18), Code 1966, is hereby amended by inserting in line  
5 five (5) before the word "and" the word "lienholders,".

6 Sec. 2. In all condemnation proceedings pending on the  
7 effective date of this Act under chapter four hundred seventy-  
8 two (472) of the Code, wherein the property owner has served  
9 a proper notice of appeal on the applicant for condemnation  
10 within the statutory period, but has failed to serve notice  
11 of appeal on a lienholder within the statutory period as re-  
12 quired by section four hundred seventy-two point eighteen  
13 (472.18) of the Code, such failure shall not deprive the  
14 court of jurisdiction insofar as the applicant is concerned,  
15 unless a lienholder can show prejudice thereby, and in such  
16 instances the appeal, as it affects the applicant, is legalized  
17 and validated.

18 Sec. 3. This Act, being deemed of immediate importance,  
19 shall take effect after its passage, approval, and publication  
20 in the Marshalltown Times-Republican, a newspaper published at  
21 Marshalltown, Iowa, and in the Globe-Gazette, a newspaper  
22 published at Mason City, Iowa.

### EXPLANATION OF SENATE FILE 330

This act provides that failure to serve a lienholder in a condemnation proceeding does not deprive the court of proper jurisdiction except in cases of prejudice. It further requires that notice of an appeal from an assessment in an eminent domain proceeding be given to a lienholder as well as other parties entitled thereto

1 Senate File 330 is hereby amended as follows:

2 1. By adding thereto after section two (2) the follow-  
3 ing new sections:

4 Sec. 3. Section four hundred seventy-two point thirty-  
5 three (472.33), Code 1966, is hereby amended by striking all  
6 after the period in line three (3) and by inserting in lieu  
7 thereof the following:

8 "In the event that condemner shall appeal said commission's  
9 award, said condemner shall be liable for all costs to the  
10 landowner including, but not limited to, reasonable attorney  
11 fees and costs of expert witnesses."

12 Sec. 4. Chapter four hundred seventy-two (472), Code  
13 1966, is hereby amended by adding thereto the following new  
14 sections:

15 (1) "Not less than thirty days prior to filing of the  
16 application, as provided in Section four hundred seventy-two  
17 point three (472.3) of the Code, the condemner shall make an  
18 offer, in writing, to the landowner stating the amount of  
19 damages they would pay for an easement to said property.

20 In the event the landowner shall refuse said offer and  
21 the commission shall make an award equal to one hundred ten  
22 percent (110%) of condemner's offer, then there shall be an  
23 additional award equal to twenty-five percent (25%) of the  
24 final award to recompense said landowner for costs involved  
25 in the condemnation proceedings.

26 (2) Notwithstanding any other section of this chapter  
27 or any other chapter of the Code, a condemnee may choose in  
28 lieu of a lump-sum award to receive an annual rental for the  
29 land use. Said rental shall be determined by multiplying  
30 seven percent (7%) times the fair market value of the property  
31 as determined by the county assessor for property tax purposes.  
32 Any dispute under this paragraph shall be resolved by the  
33 sheriff's commission.

34 The fair market value for the computation purpose  
35 shall be changed at such times and in such amounts as the county  
36 assessor shall determine in routine determination of property  
37 values for property tax purposes."

38 2. Further amend by renumbering the remaining section.

Filed -  
April 25, 1969

JOHNSTON of Johnson