

House File 2129 - Introduced

HOUSE FILE 2129

BY LOHSE

A BILL FOR

1 An Act authorizing the reduction of damages payable to an
2 unresponsive property owner in condemnation proceedings and
3 including applicability provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 6B.33, Code 2020, is amended to read as
2 follows:

3 **6B.33 Costs and attorney fees.**

4 1. The acquiring agency shall pay all costs of the
5 assessment made by the commissioners and reasonable attorney
6 fees and costs, including the reasonable cost of one appraisal,
7 incurred by the condemnee as determined by the commissioners if
8 the award of the commissioners exceeds one hundred ten percent
9 of the final offer of the applicant prior to condemnation.
10 The condemnee shall submit an application for fees and costs
11 prior to adjournment of the final meeting of the compensation
12 commission held on the matter. The acquiring agency shall
13 file with the sheriff an affidavit setting forth the most
14 recent offer made to the person whose property is sought to be
15 condemned. Members of such commissions shall receive a per
16 diem of two hundred dollars and actual and necessary expenses
17 incurred in the performance of their official duties. The
18 acquiring agency shall reimburse the county sheriff for the per
19 diem and expense amounts paid by the sheriff to the members.
20 The acquiring agency shall reimburse the owner for the expenses
21 the owner incurred for recording fees, penalty costs for full
22 or partial prepayment of any preexisting recorded mortgage
23 entered into in good faith encumbering the property, and for
24 similar expenses incidental to conveying the property to the
25 acquiring agency. The acquiring agency shall also pay all
26 costs occasioned by the appeal, including reasonable attorney
27 fees and the reasonable cost incurred by the property owner for
28 one appraisal to be taxed by the court, unless on the trial
29 thereof the same or a lesser amount of damages is awarded than
30 was allowed by the tribunal from which the appeal was taken.
31 2. If the acquiring agency satisfies the requirements of
32 section 6B.57 relating to providing the notices and documents
33 required under this chapter, and the property owner fails to
34 timely respond to all, but not less than two, such notices,
35 documents, or other correspondence from the acquiring agency,

1 the district court, or the compensation commission for which
2 a response is required, the amount of damages awarded to the
3 property owner shall be reduced by an amount equal to the
4 additional actual costs incurred and additional reasonable
5 attorney fees paid by the acquiring agency as a result of the
6 property owner's failure to timely respond. The consequence
7 for failing to timely respond to notices and documents as
8 provided in this subsection shall be clearly stated on each
9 notice or document for which a response from the property owner
10 is required.

11 Sec. 2. APPLICABILITY. This Act applies to condemnation
12 proceedings for which the application filed under section 6B.3
13 is filed on or after July 1, 2020.

14 EXPLANATION

15 The inclusion of this explanation does not constitute agreement with
16 the explanation's substance by the members of the general assembly.

17 This bill provides that if an acquiring agency in a
18 condemnation proceeding satisfies the requirements of Code
19 section 6B.57 relating to providing the notices and documents
20 required under Code chapter 6B, and the property owner fails
21 to timely respond to all, but not less than two, such notices,
22 documents, or other correspondence from the acquiring agency,
23 the district court, or the compensation commission for which
24 a response is required, the amount of damages awarded to the
25 property owner shall be reduced by an amount equal to the
26 additional actual costs incurred and additional reasonable
27 attorney fees paid by the acquiring agency relating to the
28 condemnation proceedings.

29 The consequence for failing to timely respond to notices and
30 documents must be clearly stated on each notice or document for
31 which a response from the property owner is required.

32 The bill applies to condemnation proceedings for which the
33 application is filed on or after July 1, 2020.