

House File 2442 - Introduced

HOUSE FILE 2442
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 804)
(SUCCESSOR TO HF 81)

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 2022, 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, the amount
2 of damages awarded to the property owner shall be reduced by
3 an amount equal to the additional actual costs incurred and
4 additional reasonable attorney fees paid by the acquiring
5 agency as a result of the property owner's failure to timely
6 respond. If the acquiring agency's additional actual costs
7 and additional reasonable attorney fees equal or exceed the
8 amount awarded by the compensation commission, upon filing
9 of the commissioner's report with the sheriff, the acquiring
10 agency shall be deemed to have paid in full the damages awarded
11 without any further action. The consequence for failing to
12 timely respond to such notices and documents as provided in
13 this subsection shall be clearly stated on each notice or
14 document provided to the property owner.

15 Sec. 2. APPLICABILITY. This Act applies to condemnation
16 proceedings for which the application filed under section 6B.3
17 is filed on or after July 1, 2022.

18 EXPLANATION

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

21 This bill provides that if an acquiring agency in a
22 condemnation proceeding satisfies the requirements of Code
23 section 6B.57 relating to providing the notices and documents
24 required under Code chapter 6B, and the property owner fails
25 to timely respond to all, but not less than two, such notices,
26 documents, or other correspondence from the acquiring agency,
27 the district court, or the compensation commission, the amount
28 of damages awarded to the property owner shall be reduced by
29 an amount equal to the additional actual costs incurred and
30 additional reasonable attorney fees paid by the acquiring
31 agency relating to the condemnation proceedings. The bill also
32 specifies conditions under which the acquiring agency is deemed
33 to have paid in full the damages awarded without any further
34 action.

35 The consequence for failing to timely respond to such

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1 notices and documents must be clearly stated on each notice or
2 document provided to the property owner.

3 The bill applies to condemnation proceedings for which the
4 application is filed on or after July 1, 2022.