

## CHAPTER 171

### EMINENT DOMAIN AND CONDEMNATION PROCEEDINGS

H.F. 476

**AN ACT** relating to the exercise of the power of eminent domain and to condemnation proceedings and providing for the Act's applicability.

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

**Section 1. NEW SECTION. 6A.21 CONDEMNATION OF AGRICULTURAL LAND — DEFINITIONS.**

1. Except as otherwise provided, for purposes of this chapter and chapter 6B:
  - a. "Agricultural land" means real property owned by a person in tracts of ten acres or more and not laid off into lots of less than ten acres or divided by streets and alleys into parcels of less than ten acres, and that has been used for the production of agricultural commodities during three out of the past five years. Such use of property includes, but is not limited to, the raising, harvesting, handling, drying, or storage of crops used for feed, food, seed, or fiber; the care or feeding of livestock; the handling or transportation of crops or livestock; the storage, treatment, or disposal of livestock manure; and the application of fertilizers, soil conditioners, pesticides, and herbicides on crops. Agricultural land includes land on which is located farm residences or outbuildings used for agricultural purposes and land on which is located facilities, structures, or equipment for agricultural purposes. Agricultural land includes land taken out of agricultural production for purposes of environmental protection or preservation.
  - b. "Private development purposes" means the construction of, or improvement related to, recreational trails, recreational development paid for primarily with private funds, housing and residential development, or commercial or industrial enterprise development.
  - c. "Public use" or "public purpose" or "public improvement" does not include the authority to condemn agricultural land for private development purposes unless the owner of the agricultural land consents to the condemnation.
2. The limitation on the definition of public use, public purpose, or public improvement does not apply to a slum area or blighted area as defined in section 403.17, or to agricultural land acquired for industry as that term is defined in section 260E.2, or to the establishment, relocation, or improvement of a road pursuant to chapter 306, or to the establishment of a railway under the supervision of the department of transportation as provided in section 327C.2, or to an airport as defined in section 328.1, or to land acquired in order to replace or mitigate land used in a road project when federal law requires replacement or mitigation. This limitation also does not apply to utilities or persons under the jurisdiction of the Iowa utilities board in the department of commerce or to any other utility conferred the right by statute to condemn private property or to otherwise exercise the power of eminent domain.

**Sec. 2. NEW SECTION. 6B.2A NOTICE OF PROPOSED PUBLIC IMPROVEMENT.**

1. An acquiring agency shall provide written notification to each owner of record of private property that may be the subject of condemnation. The authority under this chapter is not conferred and condemnation proceedings shall not begin unless a good faith effort is made to serve the notice as provided in this section on the owner of record of the property subject to condemnation. The notice shall be mailed by ordinary mail to the owner of record's last known address no less than thirty days before adoption of the ordinance, resolution, motion, or other declaration of intent to proceed with the public improvement and the acquisition or condemnation, if necessary, of the property. If the location of the public improvement is changed or expanded after the decision has been made to proceed with the public improvement, a notice shall be mailed by ordinary mail no less than thirty days before the adoption of the ordinance, resolution, motion, or other declaration of intent to proceed with a change in the location of the public improvement to the owner of record of

the land to be acquired or condemned, if necessary, in the new location of the public improvement affected by the change. The notice shall include the statement of individual rights required under section 6B.2B. The notice shall, at a minimum, include the following information:

- a. The general nature of the public improvement.
  - b. The acquiring agency's intended use of the private property for the public improvement.
  - c. The process to be followed by the acquiring agency in making the decision to proceed with the public improvement and the acquisition or condemnation, if necessary, of the property.
  - d. The time, place, and manner at which an opportunity is provided for public input into the decision to proceed with the public improvement and the acquisition or condemnation, if necessary, of the property.
  - e. The current status in the planning process for the public improvement, including meetings held and decisions made.
2. The authority to condemn is not conferred until the appropriate authority approves the public improvement, including the approval of any permits required by state or federal law which permits are necessary for commencement of the project. This subsection does not apply to land condemned for public improvements undertaken pursuant to section 306.19.
3. If, after making a good faith effort, an acquiring agency is unable to ascertain the owner of record's last known address, or the identity of the owner of record is uncertain, or the mail is returned as undeliverable or is refused, the acquiring agency shall cause a notice to be published once in a newspaper of general circulation in the county or city where the private property is located.

Sec. 3. NEW SECTION. 6B.2B ACQUISITION NEGOTIATION STATEMENT OF RIGHTS.

1. The acquiring agency shall make a good faith effort to negotiate with the owner to purchase the private property before filing an application for condemnation or otherwise proceed with the condemnation process.
2. The acquiring agency shall provide the owner of record of the private property with a statement of their individual rights to be included with the notice required under section 6B.2A. The attorney general shall adopt rules pursuant to chapter 17A prescribing a statement of rights which may be used in substantial form by any person required to provide the statement by this section.

Sec. 4. Section 6B.3, Code 1999, is amended to read as follows:

6B.3 APPLICATION — RECORDING — NOTICE — TIME FOR APPRAISEMENT — NEW PROCEEDINGS.

1. Such The proceedings shall be instituted by a written application filed with the chief judge of the judicial district of the county in which the land sought to be condemned is located. Said The application shall set forth:

+ a. A description of all the property in the county, affected or sought to be condemned, by its congressional numbers, in tracts not exceeding one-sixteenth of a section, or, if the land consists of lots, by the numbers of the lot and block, and plat designation.

2 b. A plat showing the location of the right-of-way or other property sought to be condemned with reference to such description.

3 c. The names of all record owners of the different tracts of land sought to be condemned, or otherwise affected by such proceedings, and of all record holders of liens and encumbrances on such lands; also the place of residence of all such persons so far as known to the applicant.

4 d. The purpose for which condemnation is sought. For purposes of section 6B.4A, if condemnation of agricultural land is sought by a city or county, or an agency of a city or county, for location of an industry as that term is defined in section 260E.2, the application shall so state. However, the city or county shall not be required to disclose information on an industrial prospect with which the city or county is currently negotiating.

5 e. A request for the appointment of a commission to appraise the damages.

6 f. If the damages are to be paid by the state and the land to be condemned is within an agricultural area as provided in chapter 352, a statement disclosing whether any of that land is classified as class I or class II land under the United States department of agriculture natural resources conservation service land capability classification system contained in the agriculture handbook number 210, 1961 edition and, if so classified, stating that the class I or class II land is reasonably necessary for the work of internal improvement for which condemnation is sought.

g. A showing of the minimum amount of land necessary to achieve the public purpose and the amount of land to be acquired by condemnation for the public improvement. Any land to be acquired by condemnation beyond the necessary minimum to complete the project shall be presumed not to be necessary for a public use or public purpose unless the applicant can show that a substantial need exists for the additional property to achieve the public use or public purpose, or that the land in question is of little or no value or utility to the owner, or that the owner consents to the condemnation.

h. A statement indicating the efforts made by the applicant to negotiate in good faith with the owner to acquire the private property sought to be condemned.

2. The applicant shall mail a copy of the application by certified mail to the owner at the owner's last known address and to any mortgagee of record at the mortgagee's last known address and to any other record lienholder or encumbrancer of the land at the lienholder's or encumbrancer's last known address. If service of notice by certified mail cannot be made in the manner prescribed in this section, the applicant shall cause a notice to be published once in a newspaper of general circulation in the county. If service of notice is made by publication, an affidavit shall be filed with the county recorder along with the application. The affidavit shall state the reason why service of notice by certified mail could not be made, the name of the publication, and the date of the publication. Service of notice by publication shall be deemed complete on the day of publication.

7 3. The applicant shall promptly certify that its application for condemnation has been approved by the chief judge and shall file the original approved application with the county recorder in the manner required under section 6B.37. The county recorder shall file and index the application in the record of deeds and preserve the application as required by sections 6B.38 and 558.55. The filing and indexing constitute constructive notice to all parties that a proceeding to condemn the property is pending and that the applicant has the right to acquire the property from all owners, lienholders, and encumbrancers whose interests are of record at the time of the filing. After filing and indexing, the county recorder shall file a copy of the application with the office of secretary of state.

PARAGRAPH DIVIDED. When indexed, the proceeding is considered pending so as to charge all persons not having an interest in the property with notice of its pendency, and while pending no interest can be acquired by the third parties in the property against the rights of the applicant. If the appraisement of damages is not made within one hundred twenty days, the proceedings instituted under this section are terminated and all rights and interests of the applicant arising out of the application for condemnation terminate. The applicant may reinstitute a new condemnation proceeding at any time. The reinstated proceedings are entirely new proceedings and not a revival of the terminated proceeding.

Sec. 5. Section 6B.4, unnumbered paragraph 2, Code 1999, is amended to read as follows:

The chief judge of the judicial district shall select by lot six persons from the list, two persons who are owner-operators of agricultural property when the property to be condemned is agricultural property; two persons who are owners of city property when the property to be condemned is other than agricultural property; and two persons from each of the remaining two representative groups, who shall constitute a compensation commission to assess the damages to all property to be taken by the applicant and located in the county, and shall name a chairperson from the persons selected. No A person shall not be selected

~~as a member of the compensation commission selected shall possess if the person possesses any interest in the proceeding which would cause such the person to render a biased decision. The clerk of the district court shall send, by ordinary mail, a list of those persons selected to the applicant and to the owner of the property at the owner's last known address. The list shall be provided prior to the mailing, by any party, of a notice of assessment under section 6B.8. If the clerk of the district court is unable to locate an address for the owner of the property, the list shall be published once in a newspaper of general circulation in the county. The applicant shall reimburse the clerk of the district court for the cost of mailing and publication.~~

Sec. 6. Section 6B.4, Code 1999, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** A compensation commission appointed pursuant to this section is a governmental body as defined in section 21.2 and its meetings shall be conducted in compliance with chapter 21. Notice published by the sheriff pursuant to section 6B.11 shall constitute public notice of the meeting pursuant to section 21.4.

Sec. 7. **NEW SECTION.** 6B.4A REVIEW OF APPLICATIONS BY COMPENSATION COMMISSION.

1. If a city or county, or an agency of a city or county, has filed an application for condemnation of agricultural land for industry, the application is subject to review by the compensation commission pursuant to this section.

2. At any time before the thirty-day notice of assessment expires pursuant to section 6B.8, a landowner may apply to the compensation commission for review of the condemnation application to determine whether the use of condemnation is necessary for the placement of an industry in the community. When reviewing an application, the commission shall consider all of the following:

- a. The feasibility of acquiring the agricultural land by methods other than condemnation.
- b. The public cost and public benefit from locating the industry on the agricultural land.
- c. The ability to adapt the industry development plans to avoid the use of condemnation.
- d. The existence of a specific industry to be located on the agricultural land.
- e. The amount of agricultural land requested to be condemned compared to the total amount of agricultural land needed for the project.

3. The commission shall approve or deny the application for condemnation within thirty days of receiving a request to review the condemnation application. A majority vote of the commission members is necessary to approve or deny a condemnation application. The sheriff shall notify the landowner and condemner of the commission's determination by certified mail.

4. A determination made by the compensation commission pursuant to this section shall be final unless appealed from. An appeal must be filed with the district court within thirty days of mailing the commission's determination to the condemner and the landowner. At the time of appeal, the appellant shall give written notice that the appeal has been taken to the adverse party, or the adverse party's agent or attorney. Notice of an appeal shall be served in the same manner as an original notice. The appeal shall be docketed in the name of the person appealing and all other interested parties to the action shall be defendants.

5. This section does not apply to condemnation of agricultural land if the industry is an eligible business under section 15.329 and the department of economic development enters into an agreement under section 15.330 with the industry.

6. For purposes of this section, "industry" means the same as defined in section 260E.2.

Sec. 8. Section 6B.7, Code 1999, is amended to read as follows:

**6B.7 COMMISSIONERS TO QUALIFY.**

Before proceeding with the assessment all commissioners shall qualify by filing with the sheriff a written oath that they will to the best of their ability faithfully and impartially assess ~~said~~ damages and make a written report containing the information used by the

commission in assessing the damages to the sheriff. The applicant or the owner may challenge one commissioner without stating cause. A challenge to the appointment of a commissioner must be made to the chief judge of the judicial district no less than seventy-two hours before the condemnation jury is set to meet. A commissioner shall be appointed to fill a vacancy resulting from a challenge no less than twenty-four hours before the jury is set to meet.

Sec. 9. Section 6B.8, Code 1999, is amended to read as follows:

6B.8 NOTICE OF ASSESSMENT.

The applicant, or the owner or any lienholder or encumbrancer of any land described in the application, may, at any time after the appointment of the commissioners, have the damages to the lands of any such owner assessed by giving the other party, if a resident of this state, ~~ten~~ thirty days' notice, in writing. Such The notice shall specify the day and the hour when the commissioners will view the premises, and shall be personally served in the same manner as original notices. If a city or county, or an agency of a city or county, is seeking to condemn agricultural land for an industry as that term is defined in section 260E.2, the notice shall inform the landowner that the landowner may request that the compensation commission review the application as provided in section 6B.4A.

Service of the notice to a person not a resident of this state shall be by certified mail to the person's last known address. At the same time, the applicant shall cause a notice to be published once in a newspaper of general circulation in the county prior to the day fixed for the appraisement, which day shall be at least thirty days after publication. Service of notice in this manner shall be deemed complete on the day of publication.

Sec. 10. Section 6B.11, Code 1999, is amended to read as follows:

6B.11 FILING OF NOTICES AND RETURN OF SERVICE.

Notices, immediately after the service thereof, shall, with proper return of service endorsed thereon or attached thereto, be filed with the sheriff. The sheriff shall at once cause the commissioners to be notified of the day and hour when they will be required to proceed with the appraisement. The notice to the commissioners shall also be published by the sheriff pursuant to section 331.305.

Sec. 11. Section 6B.12, Code 1999, is amended to read as follows:

6B.12 NOTICE TO NONRESIDENTS WHEN RESIDENCE UNKNOWN.

If the owner of such lands or any person interested therein is a nonresident of this state, or if If the person's residence is unknown after a good faith effort is made to find the person's last known address, no demand for the land for the purposes sought shall be necessary, but the notice aforesaid required in section 6B.8 shall be published in some a newspaper of general circulation in the county and of general circulation therein, once each week for at least four successive weeks prior to the day fixed for the appraisement, which day shall be at least thirty days after the first publication of the notice.

Sec. 12. Section 6B.14, unnumbered paragraph 3, Code 1999, is amended to read as follows:

In addition to all other damages provided by law, except moving expenses paid or required to be paid under relocation assistance programs, an An owner or tenant occupying land which is proposed to be acquired by condemnation shall be awarded a sum sufficient to remove such owner's or tenant's personal property from the land to be acquired, which sum shall represent reasonable costs of moving said the personal property from the said land to be acquired to a point no greater than twenty-five fifty miles therefrom; but in any event, said damages awarded under this section for moving shall not exceed five hundred thousand dollars for each owner or tenant occupying land so proposed to be condemned. An owner or tenant may apply for an award pursuant to this section only if all other damages provided by law have been awarded and such amount awarded is insufficient to pay the owner's or tenant's reasonable costs of moving.

Sec. 13. Section 6B.21, Code 1999, is amended to read as follows:

**6B.21 APPEALS — HOW DOCKETED AND TRIED.**

The appeal shall be docketed in the name of the person appealing and all other interested parties to the action shall be defendants. In the event the condemner and the condemnee appeal, the appeal shall be docketed in the name of the appellant which filed the application for condemnation and all other parties to the action shall be defendants. The appeal shall be tried as in an action by ordinary proceedings. ~~The appraisement of damages by the compensation commission is admissible in the action.~~

Sec. 14. Section 6B.26, Code 1999, is amended to read as follows:

**6B.26 DISPOSSESSION OF OWNER.**

A landowner shall not be dispossessed, under condemnation proceedings, of the landowner's residence, dwelling house, ~~outhouse outbuildings if the residence or dwelling house is also acquired~~, orchard, or garden, until the damages thereto have been finally determined and paid. However, if the property described in this section is condemned for highway purposes by the state department of transportation, the condemning authority may take possession of the property either after the damages have been finally determined and paid or one hundred eighty days after the compensation commission has determined and filed its award, in which event all of the appraisement of damages shall be paid to the property owner before the dispossession can take place. This section shall not apply to condemnation proceedings for drainage or levee improvements, or for public school purposes. For the purposes of this section, "outbuildings" means structures and improvements located in proximity to the landowner's residence.

Sec. 15. Section 6B.33, Code 1999, is amended to read as follows:

**6B.33 COSTS AND ATTORNEY FEES.**

The applicant shall pay all costs of the assessment made by the commissioners and reasonable attorney fees and costs incurred by the condemnee as determined by the commissioners if the award of the commissioners exceeds one hundred ten percent of the final offer of the applicant prior to condemnation. The applicant shall file with the sheriff an affidavit setting forth the most recent offer made to the person whose property is sought to be condemned. Members of such commissions shall receive a per diem of fifty dollars and actual and necessary expenses incurred in the performance of their official duties. The applicant shall reimburse the county sheriff for the per diem and expense amounts paid by the sheriff to the members. The applicant shall reimburse the owner for the expenses the owner incurred for recording fees, penalty costs for full or partial prepayment of any preexisting recorded mortgage entered into in good faith encumbering the property, and for similar expenses incidental to conveying the property to the applicant. The applicant shall also pay all costs occasioned by the appeal, including reasonable attorney fees to be taxed by the court, unless on the trial thereof the same or a less amount of damages is awarded than was allowed by the tribunal from which the appeal was taken.

Sec. 16. Section 6B.38, Code 1999, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** The county recorder shall file a copy of the sheriff's statement required by section 6B.35, subsection 5, with the office of the secretary of state.

Sec. 17. Section 6B.42, Code 1999, is amended to read as follows:

**6B.42 EMINENT DOMAIN — PAYMENT TO DISPLACED PERSONS.**

1. a. The acquiring agency shall provide to the person, in addition to any other sums of money in payment of just compensation, the payments and assistance required by law, in accordance with chapter 316.

b. A person aggrieved by a determination made as to eligibility for relocation assistance, a payment, or the amount of the payment, upon application, may have the matter reviewed by the appropriate acquiring agency.

c. An acquiring agency subject to this section that proposes to displace a person shall inform the person of the person's right to receive relocation assistance and payments, and of an aggrieved person's right to appeal a determination as to assistance and payments.

1. 2. a. A utility or railroad subject to section 327C.2, or chapters 476, 478, 479, and 479A, and 479B, authorized by law to acquire property by condemnation, which acquires the property of a person or displaces a person for a program or project which has received or will receive federal financial assistance as defined in section 316.1, shall provide to the person, in addition to any other sums of money in payment of just compensation, the payments and assistance required by law, in accordance with chapter 316.

2. b. A person aggrieved by a determination made by a utility as to eligibility for relocation assistance, a payment, or the amount of the payment, upon application, may have the matter reviewed by the utilities division of the department of commerce.

3. c. A person aggrieved by a determination made by a railroad as to eligibility for relocation assistance, a payment, or the amount of the payment, upon application, may have the matter reviewed by the state department of transportation.

4. d. A utility or railroad subject to this section that proposes to displace a person shall inform the person of the person's right to receive relocation assistance and payments, and of an aggrieved person's right to appeal to the utilities division of the department of commerce or the state department of transportation.

Sec. 18. Section 6B.45, Code 1999, is amended to read as follows:

**6B.45 CONDEMNATION FOR ROAD OR STREET—MAILING COPY OF APPRAISAL.**

When any real property or interest therein in real property is to be purchased, or in lieu thereof to be condemned for highway, street or road purposes, the purchasing state acquiring agency, county or city or their its agent shall submit to the person, corporation, or entity whose property or interest therein in the property is to be taken, by ordinary mail, at least ten days prior to the date of contact, a copy of the appraisal in its entirety upon such real property or interest therein in such real property prepared for the acquiring agency or its agent, which shall include, at least a minimum, an itemization of the appraised value of the real property or interest therein in the property, any buildings thereon on the property, all other improvements including fences, severance damages, and loss of access. The appraisal sent to the condemnee shall be that appraisal upon which the condemnor will rely to establish an amount which the condemnor believes to be just compensation for the real property. All other appraisals made on the property as a result of the condemnation proceeding shall be made available to the condemnee upon request. In lieu of an appraisal, a utility or person under the jurisdiction of the utilities board of the department of commerce, or any other utility conferred the right by statute to condemn private property, shall provide in writing by certified mail to the owner of record thirty days prior to negotiations, the methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount of each component.

Sec. 19. Section 6B.54, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If a For any project or displacing activity that has received or will receive federal financial assistance as defined in section 316.1, for any state-funded projects, or for any other public improvement for which condemnation is sought, an acquiring agency shall be guided by, at a minimum, satisfy the following policies:

Sec. 20. Section 6B.54, subsections 2, 3, 8, and 9, Code 1999, are amended to read as follows:

2. Real property shall be appraised as required by section 6B.45 before the initiation of negotiations, and the owner or the owner's designated representative shall be given an opportunity to accompany at least one appraiser of the acquiring agency during an inspection of the property, except that the state department of transportation an acquiring agency

may prescribe a procedure to waive the appraisal in cases involving the acquisition of property with a low fair market value. In lieu of an appraisal, a utility or person under the jurisdiction of the utilities board of the department of commerce, or any other utility conferred the right by statute to condemn private property, shall provide in writing by certified mail to the owner of record thirty days before negotiations, the methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount of each component.

3. Before the initiation of negotiations for real property, the acquiring agency shall establish an amount which it believes to be just compensation for the real property, and shall make a prompt offer to acquire the property for the full amount established by the agency. In no event shall the amount be less than the agency's approved lowest appraisal of the fair market value of the property. In the case of a utility or person under the jurisdiction of the utilities board of the department of commerce, or any other utility conferred the right by statute to condemn private property, the amount shall not be less than the amount indicated by the methods and factors used in arriving at an offered price for a voluntary easement.

8. If the acquisition of only a portion of property would leave the owner with an uneconomical remnant, the head of the acquiring agency ~~eoneerned~~ shall offer to acquire that remnant. For the purposes of this chapter, an "uneconomical remnant" is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, where the head of the acquiring agency ~~eoneerned~~ determines that the parcel has little or no value or utility to the owner.

9. A person whose real property is being acquired in accordance with this chapter, after the person has been fully informed of the person's right to receive just compensation for the property, may donate the property, any part of the property, any interest in the property, or any compensation paid for it to any agency as the person may determine.

Sec. 21. Section 6B.55, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If-a For any program or project that has received or will receive federal financial assistance as defined in section 316.1, for any state-funded projects, or for any other public improvement for which condemnation is sought, an acquiring agency shall be guided by at a minimum satisfy the following policies:

Sec. 22. NEW SECTION. 6B.57 PROCEDURAL COMPLIANCE.

If a city makes a good faith effort to serve, send, or provide the notices or documents required under this chapter to the owner of private property that is or may be the subject of condemnation, but fails to provide the notice or documents to the owner, such failure shall not constitute grounds for invalidation of the condemnation proceeding if the chief judge of the judicial district determines that such failure can be corrected by delaying the condemnation proceedings to allow compliance with the requirement and such failure does not unreasonably prejudice the owner.

Sec. 23. NEW SECTION. 6B.58 ACQUIRING AGENCY — DEFINITION.

For purposes of this chapter, an "acquiring agency" means the state of Iowa or any person or entity conferred the right by statute to condemn private property or to otherwise exercise the power of eminent domain.

Sec. 24. NEW SECTION. 6B.59 SALE OF ACQUIRED PROPERTY — REIMBURSEMENT TO LANDOWNER.

If an acquiring agency acquires property by condemnation, or by otherwise exercising the power of eminent domain, and that property is later sold by the acquiring agency for more than the acquisition price paid to the landowner, the acquiring agency shall pay to the landowner from whom the property was acquired the difference between the price at which it was acquired and the price at which it was sold by the acquiring agency less the cost of

any improvements made to or benefiting the land by the acquiring agency. This section does not apply to property acquired by the Iowa department of transportation.

Sec. 25. NEW SECTION. 9.2A RECORDS RELATING TO CONDEMNATION.

The secretary of state shall receive and preserve in the secretary's office all papers transmitted to the secretary in relation to condemnation and shall keep an alphabetical list of acquiring agencies in a book provided for that purpose, in which shall be entered the name of the acquiring agency, the county in which the real property is located, and the date the condemnation application was filed.

Sec. 26. Section 306.19, subsection 3, Code 1999, is amended to read as follows:

3. None of the foregoing requirements shall prohibit the property owner and the agency from entering into a mutually acceptable agreement for the replacement, relocation, construction, or maintenance of any alternate driveway on the owner's property. Compensation for any property rights taken in the establishment of any alternative temporary or permanent access shall be paid as in any other purchase or condemnation of property.

Sec. 27. Section 306.19, subsection 4, Code 1999, is amended to read as follows:

4. Compensation for any property rights taken in the establishment of any alternative temporary or permanent access shall be paid as in any other purchase or condemnation of property. Proceedings for the condemnation of land for any highway shall be under the provisions of chapter 6A and chapter 6B. Provided that, in the condemnation of right-of-way for secondary roads that is contiguous to existing road right-of-way for the maintenance, safety improvement, or upgrade of the existing secondary road, the board of supervisors may proceed as provided in sections 306.28 to 306.37.

Sec. 28. Section 306.27, Code 1999, is amended to read as follows:

306.27 CHANGES FOR SAFETY, ECONOMY, AND UTILITY.

The state department of transportation as to primary roads and the boards of supervisors as to secondary roads on their own motion may change the course of any part of any road or stream, watercourse, or dry run and may pond water in order to avoid the construction and maintenance of bridges, or to avoid grades, or railroad crossings, or to straighten a road, or to cut off dangerous corners, turns or intersections on the highway, or to widen a road above statutory width, or for the purpose of preventing the encroachment of a stream, watercourse, or dry run upon the highway. The department and the board of supervisors shall conduct its their proceedings in the manner and form prescribed in chapter 6B, and except that the board of supervisors shall may use the form prescribed in sections 306.28 to 306.37 or as provided in chapter 6B for the condemnation of right-of-way that is contiguous to existing road right-of-way and necessary for the maintenance, safety improvement, or upgrade of the existing secondary road. Changes are subject to chapter 455B.

Sec. 29. Section 306.28, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

306.28 APPRAISERS.

If the board is unable, by agreement with the owner, to acquire the necessary right of way to effect such change, a compensation commission shall be selected pursuant to section 6B.4, to appraise the damages consequent on the taking of the right of way.

Sec. 30. Section 306.29, unnumbered paragraph 2, Code 1999, is amended to read as follows:

To whom it may concern: Notice is given that the board of supervisors of ..... county, Iowa, propose to condemn for road purposes the following described real estate in said county: (Here describe the right of way, and the tract or tracts from which such right of way will be taken.) The damages caused by said condemnation will be assessed by three appraisers a compensation commission appointed as provided by law for the purpose of appraising the damages. Notice is hereby given that the owner or owners of said real estate

~~may, on or before the .. day of ...., appoint one of said appraisers and that in case such right be not exercised, or if exercised and the said appointee fails to appear and qualify, the said three appraisers will be otherwise appointed as provided by law.~~ All parties interested are further notified that ~~said three appraisers~~ the compensation commission will, when duly appointed, proceed to appraise ~~said~~ the damages, will report ~~said~~ the appraisalment to the ~~said~~ board of supervisors and that ~~said~~ latter ~~the~~ board will pass thereon as provided by law, and that at all such times and places you may be present if you be so minded. You are further notified that at ~~said~~ the hearing before the ~~said~~ supervisors you may file objections to the use of ~~said~~ the land for road purposes and that all such objections not so made will be deemed waived.

.....  
County Auditor.

Sec. 31. Section 306.31, Code 1999, is amended to read as follows:

**306.31 QUALIFICATION AND ASSESSMENT.**

~~Upon the appointment of three appraisers, the county auditor shall cause them to appear before the auditor and to take oath that they will faithfully and impartially assess the damages claimed. Said~~ The appraisers shall forthwith proceed to the assessment of ~~said~~ damages and shall make written report thereof of the damages to the board of supervisors.

Sec. 32. Section 316.1, subsection 5, paragraphs a and b, Code 1999, are amended to read as follows:

a. A person who moves from real property or moves the person's personal property from real property in either any of the following circumstances:

(1) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, the real property in whole or in part for a program or project undertaken with federal financial assistance.

(2) The person moved or moved the person's personal property from real property on which the person is either a residential tenant or conducts a small business, a farm operation, or a business as defined in subsection 2, paragraph "d", as a direct result of rehabilitation or demolition for a program or project undertaken with federal financial assistance in a case in which the head of the displacing agency determines that the displacement is permanent.

(3) As a direct result of a written notice of intent to acquire by condemnation, the initiation of negotiations for, or the acquisition of, the real property in whole or in part by the state of Iowa or by an entity or person conferred the right to condemn private property.

b. For purposes of section 316.4, subsections 1 and 2, and section 316.7, a person who moves from real property, or moves the person's personal property from real property in either any of the following circumstances:

(1) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, other real property in whole or in part if the person conducts a business or farm operation on the other real property for a program or project undertaken with federal financial assistance.

(2) As a direct result of rehabilitation or demolition of other real property on which the person conducts a business or a farm operation for a program or project undertaken with federal financial assistance in a case in which the head of the displacing agency determines that the displacement is permanent.

(3) As a direct result of a written notice of intent to acquire by condemnation, the initiation of negotiations for, or the acquisition of, other real property in whole or in part by the state of Iowa or by an entity or person conferred the right to condemn private property if the person conducts a business or farm operation on the other real property.

Sec. 33. Section 331.304, subsection 8, Code 1999, is amended to read as follows:

8. The power to take private property for public use shall only be exercised by counties for public purposes which are reasonable and necessary as an incident to the powers and duties

conferred upon counties, and in accordance with chapters 6A and 6B. ~~Sections Section 306.19 and 306.28 to 306.37 are~~ is also applicable to condemnation of right of way for secondary roads. ~~Sections 306.27 through 306.37 are applicable to the condemnation of right of way that is contiguous to existing road right of way and necessary for the maintenance, safety improvement, or upgrade of the existing secondary road.~~

Sec. 34. Section 331.602, subsection 24, Code 1999, is amended to read as follows:

24. Record papers, statements, and certificates relating to the condemnation of property as provided in section 6B.38, and carry out duties related to the filing of certain condemnation documents with the office of secretary of state.

Sec. 35. Section 403.5, subsection 4, Code 1999, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** A municipality shall not condemn agricultural land included within an economic development area unless the owner of the agricultural land consents to condemnation or unless the agricultural land is to be acquired for industry as that term is defined in section 260E.2. This paragraph shall not apply to land necessary or useful for the operation of a city utility as defined in section 362.2, for the operation of a city franchise conferred the authority to condemn private property under section 364.2, or a combined utility system as defined in section 384.80.

Sec. 36. Section 403.7, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A municipality shall have the right to acquire by condemnation any interest in real property, including a fee simple title thereto, which it may deem necessary for or in connection with an urban renewal project under this chapter. However, a municipality shall not condemn agricultural land included within an economic development area unless the owner of the agricultural land consents to condemnation or unless the agricultural land is to be acquired for industry as that term is defined in section 260E.2. A municipality may exercise the power of eminent domain in the manner provided in chapter 6B, and Acts amendatory to that chapter or supplementary to that chapter, or it may exercise the power of eminent domain in the manner now or which may be hereafter provided by any other statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired in like manner. However, real property belonging to the state, or any political subdivision of this state, shall not be acquired without its consent, and real property or any right or interest in the property owned by any public utility company, pipeline company, railway or transportation company vested with the right of eminent domain under the laws of this state, shall not be acquired without the consent of the company, or without first securing, after due notice to the company and after hearing, a certificate authorizing condemnation of the property from the board, commission or body having the authority to grant a certificate authorizing condemnation. In a condemnation proceeding, if a municipality proposes to take a part of a lot or parcel of real property, the municipality shall also take the remaining part of the lot or parcel if requested by the owner.

Sec. 37. Section 403.17, Code 1999, is amended by adding the following new subsection:

**NEW SUBSECTION.** 2A. "Agricultural land" means real property owned by a person in tracts of ten acres or more and not laid off into lots of less than ten acres or divided by streets and alleys into parcels of less than ten acres, and that has been used for the production of agricultural commodities during three out of the past five years. Such use of property includes, but is not limited to, the raising, harvesting, handling, drying, or storage of crops used for feed, food, seed, or fiber; the care or feeding of livestock; the handling or transportation of crops or livestock; the storage, treatment, or disposal of livestock manure; and the application of fertilizers, soil conditioners, pesticides, and herbicides on crops. Agricultural land includes land on which is located farm residences or outbuildings used for agricultural purposes and land on which is located facilities, structures, or equipment for agricultural

purposes. Agricultural land includes land taken out of agricultural production for purposes of environmental protection or preservation.

Sec. 38. Section 403.17, subsection 9, Code 1999, is amended to read as follows:

9. "Economic development area" means an area of a municipality designated by the local governing body as appropriate for commercial and industrial enterprises, public improvements related to housing and residential development, or construction of housing and residential development for low and moderate income families, including single or multifamily housing. If an urban renewal plan for an urban renewal area is based upon a finding that the area is an economic development area and that no part contains slum or blighted conditions, then the division of revenue provided in section 403.19 and stated in the plan shall be limited to twenty years from the calendar year following the calendar year in which the city first certifies to the county auditor the amount of any loans, advances, indebtedness, or bonds which qualify for payment from the division of revenue provided in section 403.19. Such designated area shall not include agricultural land, including land which is part of a century farm, unless the owner of the agricultural land or century farm agrees to include the agricultural land or century farm in the urban renewal area. For the purposes of this subsection, "century farm" means a farm in which at least forty acres of such farm have been held in continuous ownership by the same family for one hundred years or more.

Sec. 39. Section 543D.3, unnumbered paragraph 2, Code 1999, is amended to read as follows:

A person who is not a certified real estate appraiser under this chapter may appraise real estate for compensation if certification is not required by this chapter or by federal or state law, rule, or policy. However, an employee of the state department of transportation whose duties include appraisals of property pursuant to chapter 6B must be a certified real estate appraiser under this chapter.

Sec. 40. Section 543D.5, subsection 2, paragraph a, Code 1999, is amended to read as follows:

a. Require compliance with federal law and appraisal standards adopted by federal authorities as they apply to federally covered transactions. This paragraph does not require that an appraiser invoke a jurisdictional exception to the uniform standards of professional appraisal practice in order to comply with federal law and appraisal standards adopted by federal authorities as they apply to federally covered transactions, unless federal law requires that the exception be invoked.

Sec. 41. APPLICABILITY. Sections 1, 35, 36, and 37 of this Act, enacting section 6A.21, amending sections 403.5 and 403.7, and enacting section 403.17, subsection 2A, apply to urban renewal areas established before, on, or after the effective date of this Act and to amendments to such urban renewal areas.

Section 38 of this Act, amending section 403.17, subsection 9, applies to urban renewal areas established on or after the effective date of this Act. Section 38 of this Act also applies to agricultural land included in an urban renewal area established before the effective date of this Act if the agricultural land is included in the urban renewal area by virtue of an amendment to the urban renewal plan, which amendment is adopted on or after the effective date of this Act.

Sec. 42. EFFECTIVE DATE. This Act applies to state highway construction projects approved for commencement by the transportation commission on or after July 1, 1999. This Act applies to all other condemnation proceedings in which the application for condemnation is filed on or after July 1, 1999.