

WHAT IS EMINENT DOMAIN?

Eminent domain, also known as condemnation, refers to the State's ability to take or damage private property for a public use. The entity taking or damaging the private property must compensate the landowner for the loss. The Eminent Domain Act, 735 ILCS 30/1-1-1 *et seq.*, governs this power and process in Illinois.

WHAT IS "QUICK-TAKE?"

"Quick-take" refers to the authority of a condemnor to take possession of property before compensation is determined by a court. Article 20 of the Eminent Domain Act provides the process for exercising quick-take authority. Article 25 specifies particular instances in which specific State departments, agencies, and units of local government may use quick-take authority.

WHAT DOES HB 5564 DO?

HB 5564 restores the status quo under the Eminent Domain Act by returning to the legislature the ability to determine who may exercise quick-take authority.

WHAT WAS THE STATUS QUO?

Prior to September 2015, a party condemning property under the Eminent Domain Act could not take possession until a court determined the amount of compensation to be paid for a condemned property interest. Quick-take authority was the only exception to the standard practice of waiting until the compensation level is determined by the court before the condemnor may take possession of the property.

WHAT HAPPENED IN SEPTEMBER, 2015?

An Illinois appellate court allowed a private business to take possession of land it sought to condemn prior to a determination of the amount of compensation to be paid. This for-profit business did not have quick take authority from the legislature. (See Enbridge Pipelines (Ill.), L.L.C. v. Troyer, 2015 IL App (4th) 150334, 395 Ill. Dec. 526, 38 N.E.3d 1282)

WHAT DOES THIS MEAN?

The court's action effectively (1) ignored those provisions of the Eminent Domain Act calling for compensation to be determined before possession is taken and (2) replaced the Illinois legislature as the body entitled to decide who specifically may exercise quick-take authority. Such action clearly conflicts with and usurps the legislature's authority by upsetting the balance and protections established for all landowners in the Eminent Domain Act.

DOES HB 5564 DO ANTHING ELSE?

No. If enacted, HB 5564 simply prevents an entity lacking quick-take authority from taking title or possession of land until a court ascertains the compensation to be paid. Any entity granted quick-take authority by the legislature will still be able to continue exercising that authority.

HB 5564 SIMPLY RESTORES TO THE ILLINOIS LEGISLATURE THE AUTHORITY TO DETERMINE WHICH ENTITIES RECEIVE QUICK TAKE POWER.

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