

SENATE BILL 1496

By Haile

AN ACT to amend Tennessee Code Annotated, Section 29-17-1005, relative to eminent domain.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 29-17-1005, is amended by deleting the section and substituting the following:

(a)

(1) A local government, having condemned or taken property through exercising the power of eminent domain under this chapter, chapter 16 of this title, or any other law, shall initially offer to sell the condemned or taken property to the former property owner from whom the property was condemned or taken if the local government decides to sell the property.

(2) The local government shall notify the former property owner at least sixty (60) days prior to listing the property for sale. A good faith effort by the local government to locate and notify the former property owner satisfies this subdivision (a)(2), and any sale then proceeding pursuant to subsection (d) shall be valid.

(b)

(1) The local government shall send a purchase agreement, together with the notice described in subdivision (a)(2), to the former property owner. The purchase agreement shall authorize the former property owner to purchase the property for the lesser of the following:

(A) The price paid to the former property owner by the local government at the time the local government acquired the property

through eminent domain, plus the cost of any documented expenditures that improved the value of the property and an amount equal to the average amount of interest that would have accrued on the amount paid to the former property owner if held in U.S. treasury bonds; or

(B) An amount representing not less than the fair market value of the property as of the date of the purchase agreement, together with the cost of any documented expenditures that improved the value of the property.

(2) The former property owner shall have thirty (30) days from receipt of the notice described in subdivision (a)(2) in which to sign and return the purchase agreement to the local government.

(c) If the local government fails to notify the former property owner within the sixty-day period described in subdivision (a)(2), then the former property owner may file a petition with the court having jurisdiction over the property in order to require the sale of the property to the former property owner within six (6) months of the date of the petition for the lesser of the amounts described in subdivision (b)(1).

(d) Notwithstanding subsection (a), if the former property owner fails to sign the purchase agreement within the thirty-day period described in subdivision (b)(2), then the former property owner shall forfeit the rights granted under this section, including any future sale or transfer of the property by the local government. If the local government decides to sell the property thereafter, then the local government shall sell the property in any commercially reasonable manner to the general public for an amount not less than the fair market value of the property.

(e) If the local government sells or otherwise conveys the property in violation of this section, then the former property owner shall have a cause of action in the court having jurisdiction over the property for damages in the amount of:

(1) The proceeds of the sale or the fair market value of the property as of the date of filing the action in court, whichever is greater, minus the cost of any documented expenditures that improved the value of the property; and

(2) Attorneys' fees, if the former property owner is the prevailing party.

(f) The former property owner's rights granted under this section shall not transfer to the former property owner's heirs or be transferrable to any other party.

(g) This section shall not apply if compliance is prohibited by federal law.

(h) As used in this section, "local government" means any incorporated city or town, county, or metropolitan government.

SECTION 2. This act shall take effect July 1, 2018, the public welfare requiring it.