

CHAPTER 421

PROPERTY

HOUSE BILL 03-1089

BY REPRESENTATIVE(S) Mitchell, Brophy, Cloer, Crane, Harvey, Jahn, Lee, Lundberg, May M., McFadyen, Merrifield, Miller, Plant, Rhodes, Rose, Schulteis, Smith, Spradley, Stafford, Stengel, and Young;
also SENATOR(S) Taylor, Cairns, Chlouber, Dyer, Hillman, McElhany, and Teck.

AN ACT**CONCERNING REIMBURSEMENT TO OWNERS WHOSE PROPERTY IS ACQUIRED BY A CONDEMNING AUTHORITY IN EMINENT DOMAIN PROCEEDINGS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly determines and declares that the purpose and intent of this act is to encourage condemning entities to make fair and reasonable offers to owners of property subject to condemnation. Determining the amount of an offer to purchase is within the discretion and authority of the condemning entity, and such entities will be liable for owners' costs and fees only where a court or jury has determined that the fair value is at least thirty percent higher than the condemning entity's last offer.

(2) The general assembly therefore determines that the purposes of this act will be most fully served by directing all affected state agencies, divisions, and subdivisions to implement this act within their existing resources.

SECTION 2. 38-1-122, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

38-1-122. Attorney fees. (1.5) IN CONNECTION WITH PROCEEDINGS FOR THE ACQUISITION OR CONDEMNATION OF PROPERTY IN WHICH THE AWARD DETERMINED BY THE COURT EXCEEDS TEN THOUSAND DOLLARS, IN ADDITION TO ANY COMPENSATION AWARDED TO THE OWNER IN AN EMINENT DOMAIN PROCEEDING, THE CONDEMNING AUTHORITY SHALL REIMBURSE THE OWNER WHOSE PROPERTY IS BEING ACQUIRED OR CONDEMNED FOR ALL OF THE OWNER'S REASONABLE ATTORNEY FEES INCURRED BY THE OWNER WHERE THE AWARD BY THE COURT IN THE PROCEEDINGS EQUALS OR EXCEEDS ONE HUNDRED THIRTY PERCENT OF THE LAST WRITTEN OFFER

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

GIVEN TO THE PROPERTY OWNER PRIOR TO THE FILING OF THE CONDEMNATION ACTION. THE PROVISIONS OF THIS SUBSECTION (1.5) SHALL NOT APPLY TO ANY CONDEMNATION PROCEEDING SEEKING TO ACQUIRE RIGHTS-OF-WAY UNDER ARTICLE 4, 5, OR 5.5 OF THIS TITLE, ARTICLE 45 OF TITLE 37, C.R.S., OR SECTION 7 OF ARTICLE XVI OF THE COLORADO CONSTITUTION.

SECTION 3. Effective date - applicability. This act shall take effect July 1, 2003, and shall apply to actions filed on or after said date.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 6, 2003