

Senate Engrossed

State of Arizona  
Senate  
Forty-seventh Legislature  
First Regular Session  
2005

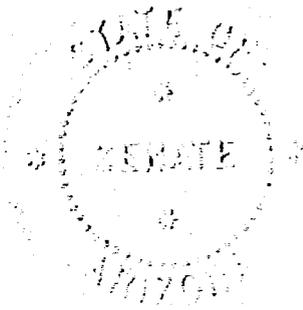
CHAPTER 23

# SENATE BILL 1006

AN ACT

AMENDING SECTIONS 12-1113 AND 12-1129, ARIZONA REVISED STATUTES; RELATING TO  
EMINENT DOMAIN.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-1113, Arizona Revised Statutes, is amended to  
3 read:

4 12-1113. Estates in land subject to condemnation

5 The interests, estates and rights in lands subject to be taken for  
6 public use, are:

7 1. A fee simple, when taken for public buildings or grounds or for  
8 permanent buildings, for use in connection with a right-of-way,— or for an  
9 outlet for the flow or a place for the deposit of tailings or refuse from a  
10 mine or for irrigating ditches. A leasehold interest in a building may be  
11 taken ~~in fee title or easement~~ only if the underlying property is taken IN  
12 FEE TITLE OR EASEMENT.

13 2. An easement when taken for any use other than those set forth in  
14 paragraph 1.

15 3. A right of entry on and occupation of lands, and the right to take  
16 from the lands earth, gravel, stone, trees and timber necessary for a public  
17 use.

18 4. A use in the water of a stream, river or spring.

19 Sec. 2. Section 12-1129, Arizona Revised Statutes, is amended to read:

20 12-1129. Dismissal of condemnation action; litigation expenses

21 A. If a plaintiff causes a condemnation action under this article to  
22 be dismissed without prejudice before payment of the compensation and damages  
23 awarded the defendant by the court or jury, the plaintiff shall not initiate  
24 any eminent domain proceeding with respect to the same property for the same  
25 or a related project for at least two years after the date of the verdict or  
26 judgment.

27 B. The court having jurisdiction of a condemnation action under this  
28 article shall award the owner with any right to, title to or interest in the  
29 property that is the subject of the action an amount that will reimburse the  
30 owner for the owner's reasonable costs, disbursements and expenses, including  
31 reasonable attorney, appraisal and engineering fees, actually incurred  
32 because of the condemnation proceeding if ~~any~~ EITHER of the following occurs:

33 1. The final judgment is that the plaintiff cannot acquire the real  
34 property by condemnation.

35 2. The proceeding is abandoned on a motion by the plaintiff.

36 ~~3.~~ C. IF the proceeding is dismissed on a motion by the plaintiff  
37 because the parties have agreed to settle the matter out of court, ~~in which~~  
38 ~~case~~ both parties shall pay their own costs, disbursements and expenses,  
39 including reasonable attorney, appraisal and engineering fees unless  
40 otherwise specified by the parties in the settlement agreement.

APPROVED BY THE GOVERNOR APRIL 5, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 5, 2005.

Passed the House March 29, 20 05,

by the following vote: 54 Ayes,

0 Nays, 6 Not Voting

[Signature]  
Speaker of the House

Cheryl Laube  
Asst. Chief Clerk of the House

Passed the Senate January 25, 20 05,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]  
President of the Senate

Charmine Bell  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

30th day of March, 20 05

at 1:41 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 5 day of

April, 20 05,

at 8:25 o'clock A. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 5 day of April, 20 05.

at 9:50 o'clock A. M.

[Signature]  
Secretary of State

S.B. 1006