

# As Passed by the House

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Sub. H. B. No. 426

REPRESENTATIVES Young, Brinkman, Britton, Carey, Carmichael, DeWine,  
Fessler, Flowers, Hagan, Lendrum, Schaffer, Schmidt, Seaver, Webster,  
Willamowski, Trakas, Patton, Damschroder, Williams, Buehrer, Coates,  
Hollister, Carano, Sulzer, Sferra, Setzer, Niehaus, Reidelbach, Salerno,  
Otterman, Kearns, Roman, Perry, Brown

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## A BILL

To amend sections 163.52 and 163.59 of the Revised Code to require acquiring state agencies to make every reasonable effort to provide a copy of the appraisal to the owner of real property appraised at more than \$10,000, to require those agencies to update or obtain new appraisals under certain circumstances, and to specify that their acquisition of property must be for a defined public purpose that is to be achieved in a defined and reasonable period of time.

### BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

**Section 1.** That sections 163.52 and 163.59 of the Revised Code be amended to read as follows:

**Sec. 163.52.** (A) ~~Section~~ The failure of an acquiring agency to satisfy a requirement of section 163.59 of the Revised Code creates no rights or liabilities and shall does not affect the validity of any property ~~acquisitions~~ acquisition by purchase or

condemnation. 17

(B) Nothing in sections 163.51 to 163.62, ~~inclusive,~~ of the 18  
Revised Code, shall be construed as creating, in any condemnation 19  
proceeding brought under the power of eminent domain, any element 20  
of value or damage not in existence immediately prior to ~~the~~ 21  
~~effective date of such sections June 11, 1971.~~ 22

**Sec. 163.59.** In order to encourage and expedite the 23  
acquisition of real property by agreements with owners, to avoid 24  
litigation and relieve congestion in the courts, to assure 25  
consistent treatment for owners in the many state and federally 26  
assisted programs, and to promote public confidence in public land 27  
acquisition practices, heads of acquiring agencies shall, ~~to the~~ 28  
~~greatest extent practicable, be guided by~~ do or ensure the 29  
acquisition satisfies all of the following policies: 30

(A) The head of an acquiring agency shall make every 31  
reasonable effort to acquire expeditiously real property by 32  
negotiation. 33

(B) In order for an acquiring agency to acquire real 34  
property, the acquisition shall be for a defined public purpose 35  
that is to be achieved in a defined and reasonable period of time. 36  
An acquisition of real property that complies with section 5501.31 37  
of the Revised Code satisfies the defined public purpose 38  
requirement of this division. 39

(C) Real property to be acquired shall be appraised before 40  
the initiation of negotiations, and the owner or ~~his~~ the owner's 41  
designated representative shall be given ~~an~~ a reasonable 42  
opportunity to accompany the appraiser during ~~his~~ the appraiser's 43  
inspection of the property, ~~except that the head of the lead~~ 44  
~~agency may prescribe a procedure to waive the appraisal in cases~~ 45  
~~involving the acquisition by sale or donation of property with a~~ 46  
~~low fair market value. If the appraisal values the property to be~~ 47

acquired at more than ten thousand dollars, the head of the 48  
acquiring agency concerned shall make every reasonable effort to 49  
provide a copy of the appraisal to the owner. As used in this 50  
section, "appraisal" means a written statement independently and 51  
impartially prepared by a qualified appraiser, or a written 52  
statement prepared by an employee of the acquiring agency who is a 53  
qualified appraiser, setting forth an opinion of defined value of 54  
an adequately described property as of a specified date, supported 55  
by the presentation and analysis of relevant market information. 56

(C)(D) Before the initiation of negotiations for real 57  
property, the head of the acquiring agency concerned shall 58  
establish an amount ~~which he~~ that the head of the acquiring agency 59  
believes to be just compensation ~~therefor~~ for the property and 60  
shall make a prompt offer to acquire the property for no less than 61  
the full amount so established. In no event shall ~~such that~~ amount 62  
be less than the agency's approved appraisal of the fair market 63  
value of ~~such the~~ the property. Any decrease or increase in the fair 64  
market value of real property prior to the date of valuation 65  
caused by the public improvement for which ~~such the~~ the property is 66  
acquired, or by the likelihood that the property would be acquired 67  
for ~~such that~~ the improvement, other than that due to physical 68  
deterioration within the reasonable control of the owner, will be 69  
disregarded in determining the compensation for the property. ~~The~~ 70

The head of the acquiring agency concerned shall provide the 72  
owner of real property to be acquired with a written statement of, 73  
and summary of the basis for, the amount ~~he~~ that the head of the 74  
acquiring agency established as just compensation. Where 75  
appropriate, the just compensation for ~~the~~ real property acquired 76  
and for damages to remaining real property shall be separately 77  
stated. 78

(D) The owner shall be given a reasonable opportunity to 79

consider the offer of the acquiring agency for the real property, 80  
to present material that the owner believes is relevant to 81  
determining the fair market value of the property, and to suggest 82  
modification in the proposed terms and conditions of the 83  
acquisition. The acquiring agency shall consider the owner's 84  
presentation and suggestions. 85

(E) If information presented by the owner or a material 86  
change in the character or condition of the real property 87  
indicates the need for new appraisal information, or if a period 88  
of more than two years has elapsed since the time of the appraisal 89  
of the property, the head of the acquiring agency concerned shall 90  
have the appraisal updated or obtain a new appraisal. If updated 91  
appraisal information or a new appraisal indicates that a change 92  
in the acquisition offer is warranted, the head of the acquiring 93  
agency shall promptly reestablish the amount of the just 94  
compensation for the property and offer that amount to the owner 95  
in writing. 96

(F) No owner shall be required to surrender possession of 97  
real property before the acquiring agency concerned pays the 98  
agreed purchase price, or deposits with the court for the benefit 99  
of the owner, an amount not less than the agency's approved 100  
appraisal of the fair market value of ~~such~~ the property, or the 101  
amount of the award of compensation in the condemnation proceeding 102  
for ~~such~~ the property. 103

~~(E)~~(G) The construction or development of a public 104  
improvement shall be so scheduled that no person lawfully 105  
occupying real property shall be required to move from a dwelling, 106  
or to move ~~his~~ the person's business or farm operation, without at 107  
least ninety days' written notice from the head of the acquiring 108  
agency concerned, of the date by which ~~such~~ the move is required. 109

~~(F)~~(H) If the head of an acquiring agency permits an owner or 110  
tenant to occupy the real property acquired on a rental basis for 111

a short term or for a period subject to termination on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

~~(G)~~(I) In no event shall the head of an acquiring agency either advance the time of condemnation, or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action coercive in nature, in order to compel an agreement on the price to be paid for the real property.

~~(H)~~ If (J) When any interest in real property is ~~to be~~ acquired by exercise of the power of eminent domain, the head of the acquiring agency concerned shall institute the formal condemnation proceedings. No head of an acquiring agency head shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of ~~his~~ the owner's real property.

~~(I)~~(K) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the head of the acquiring agency concerned shall offer to acquire that remnant. For the purposes of this division, an uneconomic 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 and which the head of the agency concerned has determined has little or no value or utility to the owner.

An acquisition of real property may continue while an acquiring agency carries out the requirements of divisions (A) to (K) of this section.

This section applies only when the acquisition of real property may result in an exercise of the power of eminent domain.

**Section 2.** That existing sections 163.52 and 163.59 of the Revised Code are hereby repealed.