

SENATE BILL No. 216

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-24; IC 36-1-8-20.5.

Synopsis: Eminent domain. Provides that a person operating a business on a property may be compensated for business losses resulting from a condemnation of the property. Provides that a municipality may not acquire property using an alternative condemnation procedure if the municipality is notified of the person's intent to claim compensation for business losses. Specifies that if a unit of local government (unit) provides forgivable loans, the unit must (as a condition of providing forgivable loans) require that a person operating a business on a property may be entitled to compensation under the bill's provisions concerning compensation for business losses.

Effective: Upon passage.

Buck, Niemeyer

January 8, 2026, read first time and referred to Committee on Local Government.



Second Regular Session of the 124th General Assembly (2026)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2025 Regular Session of the General Assembly.

SENATE BILL No. 216

A BILL FOR AN ACT to amend the Indiana Code concerning property.

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

1 SECTION 1. IC 32-24-1-0.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 0.1. The amendments made to sections 7**
4 **and 9 of this chapter during the 2026 regular session of the general**
5 **assembly apply to condemnation proceedings filed after March 31,**
6 **2026.**

7 SECTION 2. IC 32-24-1-7, AS AMENDED BY P.L.152-2021,
8 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]: Sec. 7. (a) The notice, upon its return, must show
10 its:

- 11 (1) service for ten (10) days; or
12 (2) proof of publication for three (3) successive weeks:
13 (A) with each publication of the notice in a weekly newspaper
14 of general circulation printed and published in the English
15 language in the county in which the property sought to be
16 acquired is located; or
17 (B) with the first publication of notice in a newspaper



described in clause (A) and the two (2) subsequent publications of notice:

- (i) in accordance with IC 5-3-5; and
- (ii) on the official ~~web site~~ **website** of the county.

The last publication of the notice must be five (5) days before the day set for the hearing.

(b) The clerk of the court in which the proceedings are pending, upon the first publication of the notice, shall send to the post office address of each nonresident owner whose property will be affected by the proceedings a copy of the notice, if the post office address of the owner or owners can be ascertained by inquiry at the office of the treasurer of the county.

(c) An owner (as defined in IC 32-24-2.6-3) shall notify the court of the owner's intent to claim compensation for loss of a going concern under IC 32-24-2.6 not later than ninety (90) days after the date of:

- (1) the first service; or**
- (2) publication;**

of the notice under subsection (a).

~~(c)~~ **(d)** The court, being satisfied of the regularity of the proceedings and the right of the plaintiff to exercise the power of eminent domain for the use sought, shall appoint:

- (1) one (1) disinterested freeholder of the county; and
- (2) two (2) disinterested appraisers licensed under IC 25-34.1;

who are residents of Indiana to assess the damages, or the benefits and damages, as the case may be, that the owner or owners severally may sustain, or be entitled to, by reason of the acquisition. One (1) of the appraisers appointed under subdivision (2) must reside not more than fifty (50) miles from the property. **If an owner notifies the court under subsection (c), at least one (1) appraiser appointed under subdivision (2) must be qualified and capable of determining the loss of a going concern.**

SECTION 3. IC 32-24-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Each appraiser shall take an oath that:

- (1) the appraiser has no interest in the matter; and
- (2) the appraiser will honestly and impartially make the assessment.

(b) After the appraisers are sworn as provided in subsection (a), the judge shall instruct the appraisers as to:

- (1) their duties as appraisers; and
- (2) the measure of the damages and benefits, if any, they allow.



(c) The appraisers shall determine and report all of the following:

(1) The fair market value of each parcel of property sought to be acquired and the value of each separate estate or interest in the property.

(2) The fair market value of all improvements pertaining to the property, if any, on the portion of the property to be acquired.

(3) The damages, if any, to the residue of the property of the owner or owners caused by taking out the part sought to be acquired.

(4) The other damages, if any, that will result to any persons from the construction of the improvements in the manner proposed by the plaintiff.

(5) The damages, if any, to an owner's loss of a going concern under IC 32-24-2.6, if the owner (as defined in IC 32-24-2.6-3) has notified the court in accordance with section 7(c) of this chapter.

(d) If the property is sought to be acquired by the state or by a county for a public highway or a municipal corporation for a public use that confers benefits on any property of the owner, the report must also state the benefits that will accrue to each parcel of property, set opposite the description of each parcel of property whether described in the complaint or not.

(e) Except as provided in subsection (f), in estimating the damages specified in subsection (c), the appraisers may not deduct for any benefits that may result from the improvement.

(f) In the case of a condemnation by the state or by a county for a public highway or a municipal corporation for public use, the appraisers shall deduct any benefits assessed from the amount of damage allowed, if any, under subsection (c)(3) and (c)(4) and the difference, if any, plus the damages allowed under subsection (c)(1), ~~and (c)(2),~~ **and, if applicable, (c)(5)** shall be the amount of the award. However, the damages awarded may not be less than the damages allowed under subsection (c)(1), ~~and (c)(2),~~ **and, if applicable, (c)(5).** Upon the trial of exceptions to the award by either party, a like measure of damages must be followed.

(g) For the purpose of assessing compensation and damages, the right to compensation and damages is considered to have accrued as of the date of the service of the notice provided in section 6 of this chapter, and actual value of compensation and damages at that date shall be:

(1) the measure of compensation for all property to be actually acquired; and



(2) the basis of damages to property not actually acquired but injuriously affected; except as to the damages stated in subsection (c)(4).

SECTION 4. IC 32-24-2-0.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.1. The amendments made to sections 5 and 6 of this chapter during the 2026 regular session of the general assembly apply to proceedings under this chapter commenced after March 31, 2026.**

SECTION 5. IC 32-24-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a) Except as provided in subsection (b), if:**

(1) a municipality has the power to acquire property under this chapter; or
 (2) another statute provides for proceedings by a municipality for acquiring property under this chapter;
 the board exercising those powers may proceed under IC 32-24-1 instead of this chapter.

(b) If an owner (as defined in IC 32-24-2.6-3) notifies the board of the owner's intent to claim compensation for loss of a going concern under IC 32-24-2.6, the board exercising those powers must proceed under IC 32-24-1 to acquire the property.

SECTION 6. IC 32-24-2-6, AS AMENDED BY P.L.152-2021, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. (a)** This chapter applies if the works board of a municipality wants to acquire property for the use of the municipality or to open, change, lay out, or vacate a street, an alley, or a public place in the municipality, including a proposed street or alley crossings of railways or other rights-of-way. However, this chapter does not apply if a municipality wants to acquire the property of a public utility (as defined in IC 8-1-2-1).

(b) The works board must adopt a resolution that the municipality wants to acquire the property. The resolution must describe the property that may be injuriously or beneficially affected. The board shall have notice of the resolution:

- (1) published for two (2) consecutive weeks:
 - (A) with each publication of notice in a newspaper of general circulation published in the municipality; or
 - (B) with the first publication of notice in a newspaper described in clause (A) and the second publication of notice:
 - (i) in accordance with IC 5-3-5; and
 - (ii) on the official ~~web site~~ **website** of the municipality; and



(2) mailed to the owner of each piece of property affected by the proposed acquisition.

The notice must name a date, at least ~~thirty (30)~~ **forty-five (45)** days after the last publication, at which time the board will receive or hear remonstrances from persons interested in or affected by the proceeding.

(c) The works board shall consider the remonstrances, if any, and then take final action, confirming, modifying, or rescinding its original resolution.

(d) If an owner (as defined in IC 32-24-2.6-3) submits a remonstrance that notifies the works board of the owner's intent to claim compensation for loss of a going concern under IC 32-24-2.6, the works board must terminate proceedings under this chapter and proceed under IC 32-24-1 to acquire the property.

SECTION 7. IC 32-24-2.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 2.6. Compensation for Business Losses

Sec. 1. This chapter applies only to condemnation proceedings filed after March 31, 2026.

Sec. 2. As used in this chapter, "going concern" means the benefits that accrue to a business or trade as a result of the business's or trade's:

- (1) location;**
- (2) geographic features;**
- (3) reputation for dependability;**
- (4) skill or quality;**
- (5) customer base; or**
- (6) good will;**

or any other circumstances resulting in the probable retention of old or acquisition of new patronage.

Sec. 3. As used in this chapter, "owner" means:

- (1) the persons listed on the tax assessment rolls as being responsible for the payment of real estate taxes imposed on the property;**
- (2) the persons in whose name title to real estate is shown in the records of the recorder of the county in which the real estate is located; or**
- (3) a lessee who operates a business on the real property.**

Sec. 4. If a business or trade is damaged by a taking, condemnation, or eminent domain proceeding, the owner shall be compensated by the condemnor for the loss of the going concern, unless the condemnor establishes by a preponderance of the



evidence that:

(1) the loss is not caused by the taking of the property or the injury to the remainder;

(2) the loss can be reasonably prevented by:

(A) relocating the business or trade to:

(i) the same or a similar location; and

(ii) a reasonably suitable location;

as the property that was taken; or

(B) taking steps and adopting procedures that a reasonably prudent person:

(i) of a similar age; and

(ii) as the owner, under similar conditions;

would take and adopt in preserving the going concern of the business or trade; or

(3) compensation for the loss will be duplicated in the compensation otherwise awarded to the owner.

Sec. 5. An owner's damages for loss of value to a going concern shall be determined by appraisers as part of the compensation due to the owner. An owner shall provide an appraiser reasonable access to the records necessary to determine the value of the loss of the going concern. The appraiser's decision regarding any award for the loss of the going concern may be challenged by any party.

SECTION 8. IC 36-1-8-20.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 20.5. (a) This section applies after March 31, 2026.**

(b) If a unit provides a forgivable loan to a person, the unit must require, as a condition of providing a forgivable loan, that an owner (as defined in IC 32-24-2.6-3) of a business may be entitled to compensation for loss of a going concern under IC 32-24-2.6.

SECTION 9. An emergency is declared for this act.

