

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.



Introduced

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).

(e) (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; 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 50 (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 value 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.



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

2 (1) The fair market value of each parcel of property sought to be

3 acquired and the value of each separate estate or interest in the

4 property.

5 (2) The fair market value of all improvements pertaining to the

6 property, if any, on the portion of the property to be acquired.

7 (3) The damages, if any, to the residue of the property of the

8 owner or owners caused by taking out the part sought to be

9 acquired.

10 (4) The other damages, if any, that will result to any persons from

11 the construction of the improvements in the manner proposed by

12 the plaintiff.

13 (5) **The damages, if any, to an owner's loss of a going concern**

14 **under IC 32-24-2.6, if the owner (as defined in IC 32-24-2.6-3)**

15 **has notified the court in accordance with section 7(c) of this**

16 **chapter.**

17 (d) If the property is sought to be acquired by the state or by a

18 county for a public highway or a municipal corporation for a public use

19 that confers benefits on any property of the owner, the report must also

20 state the benefits that will accrue to each parcel of property, set

21 opposite the description of each parcel of property whether described

22 in the complaint or not.

23 (e) Except as provided in subsection (f), in estimating the damages

24 specified in subsection (c), the appraisers may not deduct for any

25 benefits that may result from the improvement.

26 (f) In the case of a condemnation by the state or by a county for a

27 public highway or a municipal corporation for public use, the

28 appraisers shall deduct any benefits assessed from the amount of

29 damage allowed, if any, under subsection (c)(3) and (c)(4) and the

30 difference, if any, plus the damages allowed under subsection (c)(1),

31 **and (c)(2), and, if applicable, (c)(5) shall be the amount of the award.**

32 However, the damages awarded may not be less than the damages

33 allowed under subsection (c)(1), **and (c)(2), and, if applicable, (c)(5).**

34 Upon the trial of exceptions to the award by either party, a like measure

35 of damages must be followed.

36 (g) For the purpose of assessing compensation and damages, the

37 right to compensation and damages is considered to have accrued as of

38 the date of the service of the notice provided in section 6 of this

39 chapter, and actual value of compensation and damages at that date

40 shall be:

41 (1) the measure of compensation for all property to be actually

42 acquired; and



3 except as to the damages stated in subsection (c)(4).

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

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

15 (2) another statute provides for proceedings by a municipality for
16 acquiring property under this chapter;

17 the board exercising those powers may proceed under IC 32-24-1
18 instead of this chapter.

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

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

36 (1) published for two (2) consecutive weeks:

37 (A) with each publication of notice in a newspaper of general
38 circulation published in the municipality; or

39 (B) with the first publication of notice in a newspaper
40 described in clause (A) and the second publication of notice:

41 (i) in accordance with IC 5-3-5; and

42 (ii) on the official **web site website** of the municipality; and



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

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

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

Chapter 2.6. Compensation for Business Losses

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

20 Sec. 2. As used in this chapter, "going concern" means the
21 benefits that accrue to a business or trade as a result of the
22 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;

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

31 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.

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



1 **evidence that:**

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

4 **(2) the loss can be reasonably prevented by:**

5 **(A) relocating the business or trade to:**

6 **(i) the same or a similar location; and**
7 **(ii) a reasonably suitable location;**

8 **as the property that was taken; or**

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

11 **(i) of a similar age; and**

12 **(ii) as the owner, under similar conditions;**

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

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

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

23 **SECTION 8. IC 36-1-8-20.5 IS ADDED TO THE INDIANA CODE**
24 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
25 **UPON PASSAGE]: Sec. 20.5. (a) This section applies after March**
26 **31, 2026.**

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

31 **SECTION 9. An emergency is declared for this act.**

