

2/21/02 Do Pass
3/20/02 Referred to: Local Gov

FEB 19 2002
LOCAL GOVERNMENT

HOUSE FILE 2436
BY PETERSEN

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to condemnation, including service of notice when
2 appealing an appraisement of damages in a condemnation
3 proceeding and application for payment of certain fees and
4 costs associated with a condemnation of property.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 2436

H-8246

1 Amend House File 2436 as follows:
2 1. Page 1, by striking lines 19 through 26, and
3 inserting the following:
4 "2. An appeal of appraisement of damages is deemed
5 to be perfected upon service of notice of appeal on
6 the adverse party, or the adverse party's agent or
7 attorney, and any lienholders and encumbrancers of the
8 property. The notice of appeal shall be served on the
9 adverse party, or the adverse party's agent or
10 attorney, and any lienholders and encumbrancers of the
11 property in the same manner as an original notice, and
12 filed with the sheriff, within thirty days from the
13 date of filing the notice of appeal with the court".

By PETERSEN of Polk

H-8246 FILED MARCH 11, 2002

HF 2436

1 Section 1. Section 6B.18, Code 2001, is amended to read as
2 follows:

3 6B.18 NOTICE OF APPRAISEMENT -- APPEAL OF AWARD -- NOTICE
4 OF APPEAL.

5 1. After the appraisalment of damages has been delivered to
6 the sheriff by the compensation commission, the sheriff shall
7 give written notice, by ordinary mail, to the condemner and
8 the condemnee of the date on which the appraisalment of damages
9 was made, the amount of the appraisalment, and that any
10 interested party may, within thirty days from the date of
11 mailing the notice of the appraisalment of damages, appeal to
12 the district court by filing notice of appeal with the
13 district court of the county in which the real estate is
14 located. The sheriff shall endorse the date of mailing of
15 notice upon the original appraisalment of damages. ~~At the time~~
16 ~~of appeal, the appellant shall give written notice that the~~
17 ~~appeal has been taken to the adverse party, or the adverse~~
18 ~~party's agent or attorney, lienholders, and the sheriff.~~

19 2. An appeal of appraisalment of damages is deemed to be
20 commenced upon filing of a notice of appeal with the district
21 court within thirty days from the date of mailing the notice
22 of appraisalment of damages. The notice of appeal shall be
23 served on the adverse party, or the adverse party's agent or
24 attorney, any lienholders and encumbrancers of the property,
25 and the sheriff in the same manner as original notice not
26 later than thirty days after the filing of notice of appeal
27 unless, for good cause shown, the court grants more than
28 thirty days. If after reasonable diligence, the notice cannot
29 be personally served, the court may prescribe an alternative
30 method of service consistent with due process of law.

31 3. In case of condemnation proceedings instituted by the
32 state department of transportation, when the owner appeals
33 from the assessment made, such notice of appeal shall be
34 served upon the attorney general, or the department general
35 counsel to the state department of transportation, or the

1 chief highway engineer for the department.

2 Sec. 2. Section 6B.33, Code 2001, is amended to read as
3 follows:

4 6B.33 COSTS AND ATTORNEY FEES.

5 The applicant shall pay all costs of the assessment made by
6 the commissioners and reasonable attorney fees and costs
7 incurred by the condemnee as determined by the commissioners
8 if the award of the commissioners exceeds one hundred ten
9 percent of the final offer of the applicant prior to
10 condemnation. The condemnee shall submit an application for
11 fees and costs prior to adjournment of the final meeting of
12 the compensation commission held on the matter. The applicant
13 shall file with the sheriff an affidavit setting forth the
14 most recent offer made to the person whose property is sought
15 to be condemned. Members of such commissions shall receive a
16 per diem of two hundred dollars and actual and necessary
17 expenses incurred in the performance of their official duties.
18 The applicant shall reimburse the county sheriff for the per
19 diem and expense amounts paid by the sheriff to the members.
20 The applicant shall reimburse the owner for the expenses the
21 owner incurred for recording fees, penalty costs for full or
22 partial prepayment of any preexisting recorded mortgage
23 entered into in good faith encumbering the property, and for
24 similar expenses incidental to conveying the property to the
25 applicant. The applicant shall also pay all costs occasioned
26 by the appeal, including reasonable attorney fees to be taxed
27 by the court, unless on the trial thereof the same or a lesser
28 amount of damages is awarded than was allowed by the tribunal
29 from which the appeal was taken.

30 Sec. 3. Section 6B.19, Code 2001, is repealed.

31

EXPLANATION

32 This bill requires that notice of appeal of appraisalment of
33 damages in a condemnation proceeding be filed with the
34 district court where the property is located within 30 days of
35 the sheriff's mailing of the appraisalment of damages. The

1 bill specifies that a notice of appeal of appraisal of
2 damages shall be personally served by the party making the
3 appeal. The bill provides that notice of appeal must be
4 served on the adverse party, any lienholders or encumbrancers
5 of the property, and the sheriff within 30 days of filing of
6 the notice of appeal with the district court. The bill also
7 provides that, in all instances, the appealing party shall
8 serve the notice of appeal. The bill provides that if notice
9 cannot be personally served, the court may prescribe an
10 alternative method of service.

11 Finally, the bill provides that an application for fees and
12 costs occasioned by the condemnation be filed by the landowner
13 before adjournment of the final compensation commission
14 meeting held on the matter.

15 _____
16 **HOUSE FILE 2436**

17 **H-8271**

18 1 Amend House File 2436 as follows:

19 2 1. Page 1, line 20, by striking the word
20 3 "commenced" and inserting the following: "perfected".

21 4 2. Page 1, by striking lines 24 through 26, and
22 5 inserting the following: "attorney, any lienholders
23 6 and encumbrancers of the property in the same manner
24 7 as an original notice, and filed with the sheriff,
25 8 within thirty days from the date of filing the notice
26 9 of appeal".

27 10 3. Page 2, by inserting after line 1, the
28 11 following:

29 12 "Sec. ____ Section 6B.22, Code 2001, is amended to
30 13 read as follows:

31 14 6B.22 PLEADINGS ON APPEAL.

32 15 A written petition shall be filed by the plaintiff
33 16 within ~~twenty~~ thirty days after perfection of the
34 17 appeal, stating specifically the items of damage and
35 18 the amount thereof. The court may for good cause
19 shown grant additional time for the filing of the
20 petition. The defendant shall file a written answer
21 to plaintiff's petition, or such other pleadings as
22 may be proper."

23 4. By renumbering as necessary.

By PETERSEN of Polk

34 **H-8271 FILED MARCH 12, 2002**