

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1184

Introduced by

Representatives Kading, Becker, Ertelt, Johnston, Laning, D. Ruby, M. Ruby, Toman

Senator O. Larsen

1 A BILL for an Act to create and enact a new section to chapter 32-15, and two new paragraphs
2 to subdivision b of subsection 2 of section 61-16.1-09 of the North Dakota Century Code,
3 relating to the general use of quick take eminent domain; and to provide a penalty.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 32-15 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Quick take eminent domain - Use - Restrictions.**

- 8 1. Unless otherwise specified by law, when the state, a department or agency of the
9 state, or a political subdivision seeks to acquire a right of way under section 16 of
10 article I of the Constitution of North Dakota by making an offer to purchase the right of
11 way and depositing the amount of the offer with the clerk of the district court of the
12 county where the right of way is located, the state, department, agency, or political
13 subdivision first shall attempt to purchase the right of way by conducting informal
14 negotiations for not less than sixty days.
- 15 2. If informal negotiations fail, the state, department, agency, or political subdivision shall
16 engage in formal negotiations by:
- 17 a. Sending the landowner an appraisal and written offer for just compensation,
18 which includes a specific description of the exact location of the right of way, by
19 certified mail or commercial delivery requiring a signed receipt, and receiving the
20 signed receipt or documentation of constructive notice.
- 21 b. Sending the landowner a written request for a meeting by certified mail or
22 commercial delivery requiring a signed receipt if there is no agreement regarding
23 compensation or no response to the written offer within fifteen days of receipt,
24 and receiving the signed receipt or documentation of constructive notice.

- 1 c. Sending the landowner a written notice, by certified mail or commercial delivery
2 requiring a signed receipt, of intent to take possession of the right of way if there
3 is no agreement regarding compensation or no response to the written request
4 for a meeting within thirty days of receipt, and receiving the signed receipt or
5 documentation of constructive notice.
- 6 3. Any written communication to the landowner must include contact information for
7 responding to the communication and a description of the required negotiation
8 timeline.
- 9 4. The state, department, agency, or political subdivision may not include or utilize any
10 reference to quick take eminent domain during negotiations to acquire the necessary
11 easement for a right of way. The state, department, agency, or political subdivision
12 may take immediate possession of the right of way, but not a blanket easement, if the
13 state, department, agency, or political subdivision:
- 14 a. Files an affidavit by a lawfully authorized representative which states the district
15 has fulfilled the required negotiation steps; and
- 16 b. Deposits the amount of the written offer with the clerk of the district court of the
17 county in which the right of way is located.
- 18 5. Within thirty days after notice has been given in writing to the landowner by the clerk of
19 the district court that a deposit has been made for the taking of a right of way as
20 authorized in this section, the owner of the property taken may appeal to the district
21 court by serving a notice of appeal upon the entity that acquired the land, and the
22 matter must be tried at the next regular or special term of court with a jury unless a
23 jury be waived, in the manner prescribed for trials under chapter 32-15.
- 24 6. If ownership of a right of way has not terminated, ownership of a right of way acquired
25 under this section terminates automatically when the state, department, agency, or
26 political subdivision does not use the right of way for the purpose for which the right of
27 way was acquired.

28 **SECTION 2.** Two new paragraphs to subdivision b of subsection 2 of section 61-16.1-09 of
29 the North Dakota Century Code are created and enacted as follows:

30 If a court of competent jurisdiction, agency, or commission makes a
31 determination or enters a judgment against a person for failing to

1 substantially comply with this subdivision, the person may not use quick
2 take eminent domain for any purpose for a period of two years from the date
3 of the determination or judgment.
4 A person failing to comply substantially with this section is liable to the
5 owner of the property taken for treble damages incurred by the owner of the
6 property.