

HB 1425-FN - AS INTRODUCED

2022 SESSION

22-2106

11/04

HOUSE BILL ***1425-FN***

AN ACT relative to the taking of real property by eminent domain.

SPONSORS: Rep. Blasek, Hills. 21; Rep. Layon, Rock. 6; Rep. Yokela, Rock. 33; Rep. Lanzara, Hills. 28; Rep. Gorski, Hills. 7; Rep. Prout, Hills. 37

COMMITTEE: Judiciary

ANALYSIS

This bill modifies the power of the governor and council to take private property during states of emergency and modifies the calculation of compensation paid for such takings.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the taking of real property by eminent domain.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Taking of Private Property; Compensation and Use. Amend RSA 4:46, I-b - V to read as
2 follows:

3 I-b. This section shall not apply to personal property, ***real estate, or real estate***
4 ***improvements*** owned by or intended for use by individuals or families.

5 II. Takings under this section shall be strictly limited to the necessities of the situation ***and***
6 ***when there is a documented inability to obtain alternative resources***. The person proposing
7 to take possession of any such property in the name of the state shall present to the owner or person
8 in possession or control of the property a copy of the warrant under which the person purports to act
9 certified by the commissioner of safety. Upon taking possession or control of such property the
10 person shall present a receipt specifically listing the property so taken and specifically referring to
11 the warrant authorizing the taking.

12 III. Whenever possession of any real estate or title to any personal property is taken under
13 this section, its owner or possessor, hereinafter referred to as the claimant, shall be entitled to
14 ~~[damages]~~ ***replacement costs, compensation for loss of use, and attorney and administrative***
15 ***fees needed in filing the claim*** on account of such taking. Upon the taking of any such property,
16 the chief justice of the superior court is authorized to appoint a commission of 3 suitable persons to
17 assess fair and just ***replacement costs, compensation for loss of use, and attorney and***
18 ***administrative fees needed in filing the claim*** in cases in which the amount cannot be
19 determined by agreement. The chief justice shall fix the per diem compensation of the members of
20 the commission and fill any vacancies which may occur. The commission shall determine what sum
21 shall justly compensate the claimant for the property so taken, ***for loss of use of the property so***
22 ***taken, and for attorney and administrative fees needed in filing the claim***, and may in the
23 performance of its duties hire, and the state shall pay for the services of, such skilled and
24 disinterested appraisers as the commission shall deem necessary to assist it in the performance of its
25 duty.

26 IV. Any claimant aggrieved by the award made by the commission may appeal to the
27 superior court from the decision within 60 days from the granting of the award. All final awards of
28 judgments entered against the state in such proceedings and the fees and expenses of the
29 commission shall be promptly paid by the state treasurer, on warrant of the governor and council,
30 from any money in the general fund of the treasury not otherwise appropriated.

1 V. The property taken under this section shall be used in such manner as the governor, with
2 the advice and consent of the executive council, shall deem in the best interests of the state, its
3 inhabitants or the United States, which manner may include the sale at the prevailing market price
4 or the gratuitous distribution of the articles enumerated in subparagraphs I(c)(3), (4) and (5), ***except***
5 ***that the original owner of the property taken shall have the right of first refusal to***
6 ***purchase it back at the prevailing market price, which is to be determined independently***
7 ***from any award granted pursuant to paragraph III.*** All moneys derived from the sale of any
8 such property shall be paid over to the state treasurer and deposited in the general fund of the state.
9 2 Effective Date. This act shall take effect upon its passage.

**HB 1425-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to the taking of real property by eminent domain.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill modifies the power of the governor and council to take private property during states of emergencies and modifies the calculation of compensation paid from "damages" to replacement costs, compensation for loss of use, and attorney and administrative fees needed in filing the claim on account of such taking. The modification to include real estate, or real estate improvements to not apply in the taking of private property owned by or intended for use by individuals or families has the potential of decreasing State General Fund expenditures by an indeterminable amount. The inclusion of language specific to replacement costs, loss of use and attorney fees has the potential of increasing the State General Fund expenditures by an indeterminable amount. Therefore, to the extent property is taken whenever a state of emergency is declared and the taking of the property is required, there will be an indeterminable impact on State General Fund expenditures.

The Department of Safety states the actual costs to the State are indeterminable and based upon the value of the property at the time of the transfer of possession.

The Department of Justice state this bill would have no fiscal impact on their budget.

AGENCIES CONTACTED:

Department of Safety and Department of Justice