



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB3029

Introduced 1/20/2006, by Sen. Richard J. Winkel, Jr.

SYNOPSIS AS INTRODUCED:

735 ILCS 5/7-102

from Ch. 110, par. 7-102

Amends the Code of Civil Procedure. Provides that no property, except specified property, belonging to a railroad or other public utility subject to the jurisdiction of the Illinois Commerce Commission may be taken or damaged under the Eminent Domain Article of the Code without the prior review (instead of prior approval) of the Illinois Commerce Commission.

LRB094 19201 LCT 54744 b

1 AN ACT concerning civil procedure.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 7-102 as follows:

6 (735 ILCS 5/7-102) (from Ch. 110, par. 7-102)

7 Sec. 7-102. Parties. Where the right to take private
8 property for public use, without the owner's consent or the
9 right to construct or maintain any public road, railroad,
10 plankroad, turnpike road, canal or other public work or
11 improvement, or which may damage property not actually taken
12 has been heretofore or shall hereafter be conferred by general
13 law or special charter upon any corporate or municipal
14 authority, public body, officer or agent, person, commissioner
15 or corporation and the compensation to be paid for or in
16 respect of the property sought to be appropriated or damaged
17 for the purposes mentioned cannot be agreed upon by the parties
18 interested, or in case the owner of the property is incapable
19 of consenting, or the owner's name or residence is unknown, or
20 the owner is a nonresident of the state, the party authorized
21 to take or damage the property so required, or to construct,
22 operate and maintain any public road, railroad, plankroad,
23 turnpike road, canal or other public work or improvement, may
24 apply to the circuit court of the county where the property or
25 any part thereof is situated, by filing with the clerk a
26 complaint, setting forth, by reference, his, her or their
27 authority in the premises, the purpose for which the property
28 is sought to be taken or damaged, a description of the
29 property, the names of all persons interested therein as owners
30 or otherwise as appearing of record, if known, or if not known
31 stating that fact and praying such court to cause the
32 compensation to be paid to the owner to be assessed. If it

1 appears that any person not in being, upon coming into being,
2 is, or may become or may claim to be, entitled to any interest
3 in the property sought to be appropriated or damaged the court
4 shall appoint some competent and disinterested person as
5 guardian ad litem, to appear for and represent such interest in
6 the proceeding and to defend the proceeding on behalf of the
7 person not in being, and any judgment entered in the proceeding
8 shall be as effectual for all purposes as though the person was
9 in being and was a party to the proceeding. If the proceeding
10 seeks to affect the property of persons under guardianship, the
11 guardians shall be made parties defendant. Persons interested,
12 whose names are unknown, may be made parties defendant by the
13 same descriptions and in the same manner as provided in other
14 civil cases. Where the property to be taken or damaged is a
15 common element of property subject to a declaration of
16 condominium ownership pursuant to the Condominium Property Act
17 or of a common interest community, the complaint shall name the
18 unit owners' association in lieu of naming the individual unit
19 owners and lienholders on individual units. Unit owners,
20 mortgagees and other lienholders may intervene as parties
21 defendant. For the purposes of this Section "common interest
22 community" shall have the same meaning as set forth in
23 subsection (c) of Section 9-102 of the Code of Civil Procedure.
24 "Unit owners' association" or "association" shall refer to both
25 the definition contained in Section 2 of the Condominium
26 Property Act and subsection (c) of Section 9-102 of the Code of
27 Civil Procedure. Where the property is sought to be taken or
28 damaged by the state for the purposes of establishing,
29 operating or maintaining any state house or state charitable or
30 other institutions or improvements, the complaint shall be
31 signed by the governor or such other person as he or she shall
32 direct, or as is provided by law. No property, except property
33 described in either Section 3 of the Sports Stadium Act or
34 Article 11, Division 139, of the Illinois Municipal Code and
35 property described as Site B in Section 2 of the Metropolitan
36 Pier and Exposition Authority Act, belonging to a railroad or

1 other public utility subject to the jurisdiction of the
2 Illinois Commerce Commission may be taken or damaged, pursuant
3 to the provisions of Article VII of this Act, without the prior
4 review ~~approval~~ of the Illinois Commerce Commission. This
5 amendatory Act of 1991 (Public Act 87-760) is declaratory of
6 existing law and is intended to remove possible ambiguities,
7 thereby confirming the existing meaning of the Code of Civil
8 Procedure and of the Illinois Municipal Code in effect before
9 January 1, 1992 (the effective date of Public Act 87-760).
10 (Source: P.A. 89-683, eff. 6-1-97; 90-6, eff. 6-3-97.)