

# STATE OF NEW YORK

10972

## IN ASSEMBLY

September 9, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Griffin) --  
read once and referred to the Committee on Local Governments

AN ACT to amend the town law, in relation to the acquisition of real  
property by eminent domain

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. Section 64 of the town law is amended by adding a new  
2 subdivision 2-b to read as follows:

3 2-b. Acquisition of real property by eminent domain. a. Notwithstand-  
4 ing any provision of the eminent domain procedure law to the contrary,  
5 in any proceeding brought pursuant to subdivision two of this section,  
6 title shall vest in the town and compensation shall be paid only:

7 1. upon a decision by the state supreme court that compensation for  
8 the real property so condemned shall be determined solely by the income  
9 capitalization method of valuation, based on the actual net income as  
10 allowed by the public service commission; and

11 2. upon such court's determination of the amount of such compensation,  
12 based upon the income capitalization method, entry of the final judg-  
13 ment, filing of the final decree, and the conclusion of any appeal or  
14 expiration of the time to file an appeal related to the condemnation  
15 proceeding.

16 b. If any court shall utilize any method of compensation other than  
17 the income capitalization method, or if the proposed compensation is  
18 more than the rate base of the assets taken in condemnation as utilized  
19 by the public service commission in setting rates and as certified by  
20 the public service commission, the town may withdraw the condemnation  
21 proceeding without prejudice or costs to any party.

22 § 2. Section 215 of the town law is amended by adding a new subdivi-  
23 sion 5-a to read as follows:

24 5-a. a. Notwithstanding any provision of the eminent domain procedure  
25 law to the contrary, in any proceeding brought pursuant to subdivision  
26 five of this section, title shall vest in the district and compensation  
27 shall be paid only:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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2 the real property so condemned shall be determined solely by the income  
3 capitalization method of valuation, based on the actual net income as  
4 allowed by the public service commission; and

5 2. upon such court's determination of the amount of such compensation,  
6 based upon the income capitalization method, entry of the final judg-  
7 ment, filing of the final decree, and the conclusion of any appeal or  
8 expiration of the time to file an appeal related to the condemnation  
9 proceeding.

10 b. If any court shall utilize any method of compensation other than  
11 the income capitalization method, or if the proposed compensation is  
12 more than the rate base of the assets taken in condemnation as utilized  
13 by the public service commission in setting rates and as certified by  
14 the public service commission, the district may withdraw the condemna-  
15 tion proceeding without prejudice or costs to any party.

16 § 3. This act shall take effect immediately.