

# STATE OF NEW YORK

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1343--A

2021-2022 Regular Sessions

## IN SENATE

January 11, 2021

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Introduced by Sen. BROOKS -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 Assembly, do enact as follows:

1 Section 1. Acquisition of real property by eminent domain in the New  
2 York public service commission designated service territory of water-  
3 works corporations located in counties of one million, one hundred thou-  
4 sand or more that are special assessing units as defined in said water-  
5 works corporation's tariff as of May first, two thousand nineteen. a.  
6 Notwithstanding any provision of the eminent domain procedure law to the  
7 contrary, in any proceeding brought pursuant to subdivision two of  
8 section sixty-four or subdivision five of section two hundred fifteen of  
9 the town law in the New York public service commission designated  
10 service territory of water-works corporations located in counties of one  
11 million, one hundred thousand or more that are special assessing units  
12 as defined in said water-works corporation's tariff as of May first, two  
13 thousand nineteen, title shall vest in the town or water district and  
14 compensation shall be paid only:  
15 1. upon a decision by the state supreme court that compensation for  
16 the real property so condemned shall be determined solely by the income  
17 capitalization method of valuation, based on the actual net income as  
18 allowed by the public service commission; and  
19 2. upon such court's determination of the amount of such compensation,  
20 based upon the income capitalization method, entry of the final judg-  
21 ment, filing of the final decree, and the conclusion of any appeal or  
22 expiration of the time to file an appeal related to the condemnation  
23 proceeding.

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

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1     b. If any court shall utilize any method of compensation other than  
2     the income capitalization method, or if the proposed compensation is  
3     more than the rate base of the assets taken in condemnation as utilized  
4     by the public service commission in setting rates and as certified by  
5     the public service commission, the town or water district may withdraw  
6     the condemnation proceeding without prejudice or costs to any party.  
7     § 2. This act shall take effect immediately.