

**SENATE, No. 2621**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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INTRODUCED JUNE 16, 2005

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**SYNOPSIS**

Requires contamination be considered in property valuation in condemnation proceeding; requires remediation be performed by condemnor.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning valuation and remediation of contaminated  
2 property in condemnation, and supplementing P.L.1971, c.361  
3 (C.20:3-1 et seq.).  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
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8 1. a. In determining the amount of compensation to be paid by the  
9 condemnor pursuant to section 29 of P.L.1971, c.361 (C.20:3-29), the  
10 commissioners, or the court, as applicable, shall, in calculating the fair  
11 market value of the property, take into account the presence of  
12 contamination on the property and the impact, if any, on the fair  
13 market value of the property caused by the contamination in  
14 determining just compensation.

15 b. The condemnor shall be responsible for the costs of the  
16 remediation of contaminated property that is condemned pursuant to  
17 the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et  
18 seq.) for any property for which the presence of contamination is taken  
19 into account in determining the fair market value of the property  
20 pursuant to subsection a. of this section. After the completion of the  
21 remediation, only the person who is liable for cleanup and removal  
22 costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g), and  
23 who does not have a defense to liability pursuant to subsection d. of  
24 that section, shall remain liable for all civil liability to the State, to any  
25 other person, and for any additional cleanup and removal that may be  
26 required.

27 c. As used in this section, "cleanup and removal costs,"  
28 "contamination," and "remediation" shall have the same meaning as  
29 defined in section 3 of P.L.1976, c.141 (C.58:10-23.11b).  
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31 2. This act shall take effect immediately and shall be applicable to  
32 any action to condemn pending on or after the effective date of this  
33 act.  
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35  
36 STATEMENT  
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38 This bill would provide that in a condemnation action, in  
39 determining the compensation to be paid for the condemned property,  
40 the commissioners, or the court, as applicable, shall take into account  
41 the existence of environmental contamination in establishing the fair  
42 market value of the property. This bill would effectively undo the  
43 New Jersey Supreme Court's approach to the valuation of  
44 contaminated property in condemnation as articulated in Housing  
45 Auth. of City of New Brunswick v. Suydam Invs., 177 N.J. 2 (2003).  
46 The bill provides that its provisions would be applicable to any action

1 to condemn pending on or after the effective date of the act.

2 This bill would also provide that the condemnor shall be responsible  
3 for the costs of the remediation of contaminated property that is  
4 condemned pursuant to the "Eminent Domain Act of 1971," P.L.1971,  
5 c.361 (C.20:3-1 et seq.) for any property for which the presence of  
6 contamination is taken into account in determining the fair market  
7 value of the property pursuant to subsection a. of this section. After  
8 the completion of the remediation, only the person who is liable for  
9 cleanup and removal costs pursuant to section 8 of P.L.1976, c.141  
10 (C.58:10-23.11g), and who does not have a defense to liability  
11 pursuant to subsection d. of that section, shall remain liable for all civil  
12 liability to the State, to any other person, and for any additional  
13 cleanup and removal that may be required.