

SENATE BILL 455

Introduced by Thayer, et al.

2/20	On Motion Rules Suspended to Allow for Late Introduction
2/22	Introduced
2/22	First Reading
2/22	Referred to Business & Industry
2/23	Committee Report--Bill Passed
2/25	2nd Reading Passed as Amended
2/26	3rd Reading Passed
	Transmitted to House
3/04	First Reading
3/04	Referred to Natural Resources
3/12	Hearing
3/12	Tabled in Committee

1 *Senate* BILL NO. 455
2 INTRODUCED BY *[Signature]*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A FIRST RIGHT
5 OF PURCHASE OR THE RIGHT TO MATCH A COMPETING LEASE OFFER OF
6 LEASED LAND TO A LEASEHOLDER OF THE LAND IF THE LAND IS
7 WITHIN 300 FEET OF A RAILROAD RIGHT-OF-WAY; REQUIRING
8 COMPENSATION TO THE LESSEE FOR IMPROVEMENTS IF THE LEASE IS
9 TERMINATED; AMENDING SECTION 69-14-553, MCA; AND PROVIDING
10 AN IMMEDIATE EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 NEW SECTION. **Section 1.** Definitions. As used in
14 [sections 1 and 2] the following definitions apply:

- 15 (1) "Fair market value" means:
16 (a) the price negotiated between the parties under
17 [section 2]; or
18 (b) the appraised value of the land as determined by a
19 certified appraisal under [section 2].

20 (2) "Leaseholder" means a person who holds a lease or
21 permit with respect to land adjacent to a railroad
22 right-of-way and who has constructed or owns buildings on
23 the land that have an appraised value of \$5,000 or more.

24 NEW SECTION. **Section 2.** First right to purchase or to
25 match offer -- lease preference -- negotiation process --

1 exception. (1) A person or entity that has a leasehold site
2 between a point 8.5 feet from the centerline of the track
3 nearest the edge of the right-of-way and 300 feet of the
4 track centerline and that uses the leasehold for
5 transportation, regardless of the status of train
6 operations, has a right of first refusal to purchase the
7 land in the event the owner seeks to sell the land or
8 transfer the leasehold estate.

9 (2) The leaseholder of a leasehold site described in
10 subsection (1) must be given the opportunity to match a
11 competing lease offer upon expiration of an existing lease.
12 If the leaseholder matches the new lease offer, the lease
13 must be given to the leaseholder. When a person other than
14 the current leaseholder becomes the lessee of a leasehold
15 site described in subsection (1), the new lessee shall
16 compensate the former leaseholder for the reasonable value
17 of improvements made by the former leaseholder.

18 (3) The owner of the land may not sell or offer for
19 sale an interest in the leased land or dispossess the
20 leaseholder for reasons other than nonpayment of the lease
21 unless he first extends to the leaseholder a written offer
22 to sell the leased land to the leaseholder at fair market
23 value. The leaseholder shall respond to the offer within 60
24 days of receipt of the offer.

25 (4) The owner shall negotiate in good faith with the



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1 leaseholder for a period not to exceed 90 days following the
2 leaseholder's response to the written offer provided for in
3 subsection (3). The land may not be sold or transferred
4 during the response and negotiation periods.

5 (5) (a) If the owner and the leaseholder cannot agree
6 on the fair market value of the land, they shall appoint a
7 certified appraiser to establish the fair market value of
8 the land.

9 (b) In the event that the owner and leaseholder cannot
10 agree on an appraiser, each shall appoint a certified
11 appraiser who shall make an independent appraisal. If the
12 appraisals are within 5% of each other, the average of the
13 two appraisals must constitute the fair market value.

14 (c) If the two appraisals differ by more than 5%, the
15 two appraisers must appoint a third certified appraiser
16 whose appraisal must establish the fair market value of the
17 land.

18 (d) If the leaseholder fails to close the purchase of
19 the leasehold estate for any reason within 45 days after the
20 fair market value of the land has been established by the
21 appraisal process provided for in this section, the right of
22 first refusal is extinguished and the owner is free to
23 transfer the property to a person or entity other than the
24 leaseholder.

25 (e) The owner may transfer a title under this section

1 by quitclaim deed rather than warranty deed.

2 **Section 3.** Section 69-14-553, MCA, is amended to read:

3 **"69-14-553. Acquisition and transfer of real estate.**
4 **Any--such A railroad** corporation may acquire by purchase or
5 gift any ~~lands~~ land in the vicinity of its road or through
6 which the ~~same road~~ may pass, so-far-as-may-be if the land
7 is convenient or necessary to secure the right-of-way or
8 such--as--may--be if the land is granted to aid in the
9 construction of such the road and, except as provided in
10 [section 2], may convey the same land in such any manner as
11 the directors may prescribe. All deeds and conveyances made
12 by such the corporation shall must be signed by the
13 president, under the seal of the corporation."

14 **NEW SECTION. Section 4. Codification instruction.**
15 [Sections 1 and 2] are intended to be codified as an
16 integral part of Title 69, chapter 14, and the provisions of
17 Title 69, chapter 14, apply to [sections 1 and 2].

18 **NEW SECTION. Section 5. Severability.** If a part of
19 [this act] is invalid, all valid parts that are severable
20 from the invalid part remain in effect. If a part of [this
21 act] is invalid in one or more of its applications, the part
22 remains in effect in all valid applications that are
23 severable from the invalid applications.

24 **NEW SECTION. Section 6. Effective date.** [This act] is
25 effective on passage and approval.

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INTRODUCED BY THAYER, NOBLE, HAMMOND, BURNETT, AKLESTAD,
KOEHNKE, ANDERSON, NATHE, SWIFT, DEVLIN, GROSFIELD,
T. BECK, HARP, TVEIT, KEATING, RYE, LYNCH, CRIPPEN,
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JERGESON, MAZUREK, KENNEDY, BIANCHI, WILLIAMS,
YELLOWTAIL, DOHERTY, PINSONEAULT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A FIRST RIGHT
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AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Definitions. As used in
[sections 1 and 2] the following definitions apply:

(1) "Fair market value" means:

(a) the price negotiated between the parties under
[section 2]; or

(b) the appraised value of the land as determined by a
certified appraisal under [section 2].

(2) "Leaseholder" means a person who holds a lease or

permit with respect to land adjacent to a railroad
right-of-way and who has constructed or owns buildings on
the land that have an appraised value of \$5,000 or more.

NEW SECTION. Section 2. First right to purchase or to
match offer -- lease preference -- negotiation process --
exception. (1) A person or entity that has a leasehold site
between a point 8.5 feet from the centerline of the track
nearest the edge of the right-of-way and 300 feet of the
track centerline and that uses the leasehold for
transportation, regardless of the status of train
operations, has a right of first refusal to purchase the
land in the event the owner seeks to sell the land or
transfer the leasehold estate.

(2) The leaseholder of a leasehold site described in
subsection (1) must be given the opportunity to match a
competing lease offer upon expiration of an existing lease.
If the leaseholder matches the new lease offer, the lease
must be given to the leaseholder. When a person other than
the current leaseholder becomes the lessee of a leasehold
site described in subsection (1), the new lessee shall
compensate the former leaseholder for the reasonable value
of improvements made by the former leaseholder.

(3) The owner of the land may not sell or offer for
sale an interest in the leased land or dispossess the
leaseholder for reasons other than nonpayment of the lease

1 unless he first extends to the leaseholder a written offer
2 to sell the leased land to the leaseholder at fair market
3 value. The leaseholder shall respond to the offer within 60
4 days of receipt of the offer.

5 (4) The owner shall negotiate in good faith with the
6 leaseholder for a period not to exceed 90 days following the
7 leaseholder's response to the written offer provided for in
8 subsection (3). The land may not be sold or transferred
9 during the response and negotiation periods.

10 (5) (a) If the owner and the leaseholder cannot agree
11 on the fair market value of the land, they shall appoint a
12 certified appraiser to establish the fair market value of
13 the land.

14 (b) In the event that the owner and leaseholder cannot
15 agree on an appraiser, each shall appoint a certified
16 appraiser who shall make an independent appraisal. If the
17 appraisals are within 5% of each other, the average of the
18 two appraisals must constitute the fair market value.

19 (c) If the two appraisals differ by more than 5%, the
20 two appraisers must appoint a third certified appraiser
21 whose appraisal must establish the fair market value of the
22 land.

23 (d) If the leaseholder fails to close the purchase of
24 the leasehold estate for any reason within 45 days after the
25 fair market value of the land has been established by the

1 appraisal process provided for in this section, the right of
2 first refusal is extinguished and the owner is free to
3 transfer the property to a person or entity other than the
4 leaseholder.

5 (e) The owner may transfer a title under this section
6 by quitclaim deed rather than warranty deed.

7 **Section 3.** Section 69-14-553, MCA, is amended to read:

8 **"69-14-553. Acquisition and transfer of real estate.**
9 **Any--such A railroad** corporation may acquire by purchase or
10 gift any ~~lands~~ land in the vicinity of its road or through
11 which the ~~same road~~ may pass, so-far-as-may-be if the land
12 is convenient or necessary to secure the right-of-way or
13 ~~such-as-may-be~~ if the land is granted to aid in the
14 construction of ~~such the~~ the road and, except as provided in
15 [section 2], may convey the same land in such any manner as
16 the directors may prescribe. All deeds and conveyances made
17 by ~~such the~~ the corporation ~~shall~~ must be signed by the
18 president, under the seal of the corporation."

19 **NEW SECTION. Section 4.** Codification instruction.

20 [Sections 1 and 2] are intended to be codified as an
21 integral part of Title 69, chapter 14, and the provisions of
22 Title 69, chapter 14, apply to [sections 1 and 2].

23 **NEW SECTION. Section 5. Severability.** If a part of
24 [this act] is invalid, all valid parts that are severable
25 from the invalid part remain in effect. If a part of [this

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1 act] is invalid in one or more of its applications, the part
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permit with respect to land adjacent to a railroad
 right-of-way and who has constructed or owns buildings on
 the land that have an appraised value of \$5,000 or more.

(3) "RIGHT-OF-WAY" MEANS LAND UPON WHICH A RAILROAD HAS
 OR HAS HAD TRACKS.

NEW SECTION. **Section 2.** First right to purchase or to
 match offer -- lease preference -- negotiation process --
 exception. (1) A person or entity that has a leasehold site
 between a point 8.5 feet from the centerline of the track
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 track centerline and that uses the leasehold for
 transportation, regardless of the status of train
 operations, has a right of first refusal to purchase the
 land in the event the owner seeks to sell the land or
 transfer the leasehold estate. THIS SUBSECTION DOES NOT
 APPLY TO THE SALE OF LAND AS A PART OF THE SALE OF AN ENTIRE
 OPERATING RAILROAD LINE BY ONE OPERATING RAILROAD TO ANOTHER
 ENTITY FOR THE PURPOSE OF OPERATING A RAILROAD.

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