

By: Zwiener

H.B. No. 2318

A BILL TO BE ENTITLED

AN ACT

relating to the possession of property to be acquired by eminent domain during pending litigation in a condemnation proceeding.

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

SECTION 1. Section 21.021, Property Code, is amended by amending Subsections (a) and (c) and adding Subsection (e) to read as follows:

(a) Not earlier than the 180th day after the date ~~[After]~~ the special commissioners make ~~[have made]~~ an award in a condemnation proceeding, except as provided by Subsection (c) or (e) ~~[of this section]~~, the condemnor may take possession of the condemned property pending the results of further litigation if the condemnor:

(1) pays to the property owner the amount of damages and costs awarded by the special commissioners or deposits that amount of money with the court subject to the order of the property owner;

(2) deposits with the court either the amount of money awarded by the special commissioners as damages or a surety bond in the same amount issued by a surety company qualified to do business in this state, conditioned to secure the payment of an award of damages by the court in excess of the award of the special commissioners; and

(3) executes a bond that has two or more good and

1 solvent sureties approved by the judge of the court in which the  
2 proceeding is pending and conditioned to secure the payment of  
3 additional costs that may be awarded to the property owner by the  
4 trial court or on appeal.

5 (c) This state, a county, or a municipal corporation or an  
6 irrigation, water improvement, or water power control district  
7 created under legal authority:

8 (1) may take immediate possession of the property  
9 after paying or depositing money as required by Subsection (a)(1);  
10 and

11 (2) is not required to deposit a bond or the amount  
12 equal to the award of damages under Subsections (a)(2) and (3)  
13 [Subdivisions (2) and (3) of Subsection (a)].

14 (e) This section may not be construed to prohibit an  
15 agreement between the parties allowing the condemnor to take  
16 immediate possession of the property pending resolution of further  
17 litigation.

18 SECTION 2. The changes in law made by this Act apply only to  
19 a condemnation proceeding for which a petition is filed on or after  
20 the effective date of this Act. A condemnation proceeding for which  
21 a petition is filed before the effective date of this Act is  
22 governed by the law in effect on the date the petition is filed, and  
23 that law is continued in effect for that purpose.

24 SECTION 3. This Act takes effect September 1, 2023.