

By: Baxter

H.B. No. 3459

A BILL TO BE ENTITLED

AN ACT

relating to the repurchase of real property acquired by a governmental entity through eminent domain.

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

SECTION 1. Subchapter E, Chapter 21, Property Code, is amended by amending Section 21.101 to read as follows:

Sec. 21.101. APPLICABILITY. (a) Except as provided in Subsection (b) and Section 21.104 this subchapter applies only to a real property interest acquired by a governmental entity through eminent domain for a public use that was canceled before the 10th anniversary of the date of acquisition.

(b) This subchapter does not apply to a right-of-way under the jurisdiction of:

(1) a county;

(2) a municipality; or

(3) the Texas Department of Transportation.

(c) For year ending in an even-numbered calendar year a governmental entity which holds real property interests acquired by eminent domain or by the threat of the use of eminent domain shall account for such property as provided for in Subchapter E, Chapter 31, Natural Resources Code.

SECTION 2. Subchapter E, Chapter 21, Property Code, is amended by adding Section 21.104 to read as follows:

Sec. 21.104. CHANGE IN USE OF PROPERTY; DISPOSITION OF

1 PROPERTY. (a) Any real property interest acquired by a
2 governmental entity through eminent domain or through the threat of
3 eminent domain which the governmental entity has owned for thirty
4 (30) or more years: and

5 (1) has abandoned the public use for which the
6 property was acquired:

7 (2) has not used the property for the purpose of which
8 it was acquired: or

9 (3) has transferred or attempted transfer to a use
10 where the governmental entity could not have condemned the property
11 for the new use such condemnation terminates and such property
12 shall be declared as surplus by the governmental entity.

13 (b) Not later than the 180th day after the date of the
14 property being declared surplus the entity shall:

15 (1) send by certified mail, return receipt requested,
16 to the prior property owner or the owner's heirs, successors, or
17 assigns a notice containing a description of the person's right
18 under this section to repurchase the property or any portion of the
19 property thereof declared surplus.

20 (2) publish notice in a newspaper of general
21 circulation in either the county in which the land is located or, if
22 there is no such newspaper, in an adjoining county, a copy of the
23 notice sent to the prior property owner or the owner's heirs,
24 successors, or assigns and a description of the property, including
25 its location.

26 (c) Not later than the 180th day after the date of the
27 postmark on the notice sent under this section or the date of the

published notice as required by Subsection (b), the prior property owner or the owner's heirs, successors, or assigns must notify the governmental entity of the person's intent to repurchase the property interest under this section.

(d) Notwithstanding any other provision of law, as soon as practicable after receipt of the notification under Subsection (c), the district shall offer to sell the property interest to the prior property owner or the owner's heirs, successors, or assigns for a price equal to the compensation paid by the entity for the property plus interest at the rate of seven percent per year from the date of the conveyance of the property by the prior owner to the district. The prior property owner or the owner's heirs, successors, or assigns right to repurchase the property expires on the 90th day after the date on which the governmental entity makes the offer.

(e) If the prior owner, or the owners heirs, successors, or assigns does not repurchase the property the property shall be sold under the provisions of general law applicable to the governmental entity. Before the property is sold, the governmental entity must appraise the land at its market value. No land covered by this subsection may be sold for less than the appraisal. The owner of land that surrounds land in a tract which has been declared surplus shall have a preference right to purchase the tract before the land is made available for sale to any other person, provided the person having the preference right pays not less than the market value for the land as determined by the district or water supply corporation.

SECTION 3. This Act takes effect September 1, 2005.