

1-1 By: Estes, et al. S.B. No. 18
1-2 (In the Senate - Filed February 10, 2009; February 11, 2009,
1-3 read first time and referred to Committee on State Affairs;
1-4 April 29, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 29, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 18 By: Fraser

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the use of eminent domain authority.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Chapter 2206, Government Code, is amended to
1-13 read as follows:

1-14 CHAPTER 2206. [~~LIMITATIONS ON USE OF~~] EMINENT DOMAIN
1-15 SUBCHAPTER A. LIMITATIONS ON PURPOSE AND USE OF PROPERTY ACQUIRED
1-16 THROUGH EMINENT DOMAIN

1-17 Sec. 2206.001. LIMITATION ON EMINENT DOMAIN FOR PRIVATE
1-18 PARTIES OR ECONOMIC DEVELOPMENT PURPOSES. (a) This section
1-19 applies to the use of eminent domain under the laws of this state,
1-20 including a local or special law, by any governmental or private
1-21 entity, including:

1-22 (1) a state agency, including an institution of higher
1-23 education as defined by Section 61.003, Education Code;

1-24 (2) a political subdivision of this state; or

1-25 (3) a corporation created by a governmental entity to
1-26 act on behalf of the entity.

1-27 (b) A governmental or private entity may not take private
1-28 property through the use of eminent domain if the taking:

1-29 (1) confers a private benefit on a particular private
1-30 party through the use of the property;

1-31 (2) is for a public use that is merely a pretext to
1-32 confer a private benefit on a particular private party; [~~or~~]

1-33 (3) is for economic development purposes, unless the
1-34 economic development is a secondary purpose resulting from
1-35 municipal community development or municipal urban renewal
1-36 activities to eliminate an existing affirmative harm on society
1-37 from slum or blighted areas under:

1-38 (A) Chapter 373 or 374, Local Government Code,
1-39 other than an activity described by Section 373.002(b)(5), Local
1-40 Government Code; or

1-41 (B) Section 311.005(a)(1)(I), Tax Code; or

1-42 (4) is not for a public use.

1-43 (c) This section does not affect the authority of an entity
1-44 authorized by law to take private property through the use of
1-45 eminent domain for:

1-46 (1) transportation projects, including, but not
1-47 limited to, railroads, airports, or public roads or highways;

1-48 (2) entities authorized under Section 59, Article XVI,
1-49 Texas Constitution, including:

1-50 (A) port authorities;

1-51 (B) navigation districts; and

1-52 (C) any other conservation or reclamation
1-53 districts that act as ports;

1-54 (3) water supply, wastewater, flood control, and
1-55 drainage projects;

1-56 (4) public buildings, hospitals, and parks;

1-57 (5) the provision of utility services;

1-58 (6) a sports and community venue project approved by
1-59 voters at an election held on or before December 1, 2005, under
1-60 Chapter 334 or 335, Local Government Code;

1-61 (7) the operations of:

1-62 (A) a common carrier pipeline [~~subject to Chapter~~
1-63 ~~111, Natural Resources Code, and Section B(3)(b), Article 2.01,~~

2-1 ~~Texas Business Corporation Act~~]; or
 2-2 (B) an energy transporter, as that term is
 2-3 defined by Section 186.051, Utilities Code;
 2-4 (8) a purpose authorized by Chapter 181, Utilities
 2-5 Code;
 2-6 (9) underground storage operations subject to Chapter
 2-7 91, Natural Resources Code;
 2-8 (10) a waste disposal project; or
 2-9 (11) a library, museum, or related facility and any
 2-10 infrastructure related to the facility.

2-11 (d) This section does not affect the authority of a
 2-12 governmental entity to condemn a leasehold estate on property owned
 2-13 by the governmental entity.

2-14 (e) The determination by the governmental or private entity
 2-15 proposing to take the property that the taking does not involve an
 2-16 act or circumstance prohibited by Subsection (b) does not create a
 2-17 presumption with respect to whether the taking involves that act or
 2-18 circumstance.

2-19 Sec. 2206.002. LIMITATIONS ON EASEMENTS. (a) A property
 2-20 owner whose property is acquired through the use of eminent domain
 2-21 under Chapter 21, Property Code, for the purpose of creating an
 2-22 easement through that owner's property may construct streets or
 2-23 roads, including a gravel, asphalt, or concrete road, at any
 2-24 locations above the easement that the property owner chooses.

2-25 (b) The portion of a road constructed under this section
 2-26 that is within the area covered by the easement:

2-27 (1) must cross the easement at or near 90 degrees; and

2-28 (2) may not:

2-29 (A) exceed 40 feet in width;

2-30 (B) cause a violation of any applicable pipeline
 2-31 regulation; or

2-32 (C) interfere with the operation and maintenance
 2-33 of any pipeline.

2-34 (c) At least 30 days before the date on which construction
 2-35 of an asphalt or concrete road or street that will be located wholly
 2-36 or partly in an area covered by an easement used for a pipeline is
 2-37 scheduled to begin, the property owner must submit plans for the
 2-38 proposed construction to the owner of the easement.

2-39 (d) This section does not apply to an easement acquired by
 2-40 an entity for the purpose of providing water or wastewater
 2-41 services.

2-42 SUBCHAPTER B. PROCEDURES REQUIRED TO INITIATE
 2-43 EMINENT DOMAIN PROCEEDINGS

2-44 Sec. 2206.051. SHORT TITLE. This subchapter may be cited as
 2-45 the Truth in Condemnation Procedures Act.

2-46 Sec. 2206.052. APPLICABILITY. The procedures in this
 2-47 subchapter apply only to the use of eminent domain under the laws of
 2-48 this state by a governmental entity.

2-49 Sec. 2206.053. VOTE ON USE OF EMINENT DOMAIN. (a) Before a
 2-50 governmental entity initiates a condemnation proceeding by filing a
 2-51 petition under Section 21.012, Property Code, the governmental
 2-52 entity must authorize the initiation of the condemnation
 2-53 proceedings at a public meeting by a record vote.

2-54 (b) A single ordinance, resolution, or order may be adopted
 2-55 for all units of property to be condemned if:

2-56 (1) the motion required by Subsection (e) indicates
 2-57 that the first record vote applies to all units of property to be
 2-58 condemned; and

2-59 (2) the minutes of the entity reflect that the first
 2-60 vote applies to all of those units.

2-61 (c) If more than one member of the governing body objects to
 2-62 adopting a single ordinance, resolution, or order by a record vote
 2-63 for all units of property for which condemnation proceedings are to
 2-64 be initiated, a separate record vote must be taken for each unit of
 2-65 property.

2-66 (d) For the purposes of Subsections (a) and (c), if two or
 2-67 more units of real property are owned by the same person, the
 2-68 governmental entity may treat those units of property as one unit of
 2-69 property.

3-1 (e) The motion to adopt an ordinance, resolution, or order
 3-2 authorizing the initiation of condemnation proceedings under
 3-3 Chapter 21, Property Code, must be made in a form substantially
 3-4 similar to the following: "I move that the (name of governmental
 3-5 entity) authorize the use of the power of eminent domain to acquire
 3-6 (describe the property) for (describe the public use)." The
 3-7 description of the property required by this subsection is
 3-8 sufficient if the description of the location of and interest in the
 3-9 property that the governmental entity seeks to acquire is
 3-10 substantially similar to the description that is or could properly
 3-11 be used in a petition to condemn the property under Section 21.012,
 3-12 Property Code.

3-13 (f) If a project for a public use described by Section
 3-14 2206.001(c)(3) will require a governmental entity to acquire
 3-15 multiple tracts or units of property to construct facilities
 3-16 connecting one location to another location, the governing body of
 3-17 the entity may adopt a single ordinance, resolution, or order by a
 3-18 record vote that delegates the authority to initiate condemnation
 3-19 proceedings to the chief administrative official of the
 3-20 governmental entity.

3-21 (g) An ordinance, resolution, or order adopted under
 3-22 Subsection (f) is not required to identify specific properties that
 3-23 the governmental entity will acquire. The ordinance, resolution,
 3-24 or order must identify the general area to be covered by the project
 3-25 or the general route that will be used by the governmental entity
 3-26 for the project in a way that provides property owners in and around
 3-27 the area or along the route reasonable notice that the owners'
 3-28 properties may be subject to condemnation proceedings during the
 3-29 planning or construction of the project.

3-30 SUBCHAPTER C. EXPIRATION OF CERTAIN EMINENT DOMAIN AUTHORITY

3-31 Sec. 2206.101. REPORT OF EMINENT DOMAIN AUTHORITY;
 3-32 EXPIRATION OF AUTHORITY. (a) This section does not apply to an
 3-33 entity that was created or that acquired the power of eminent domain
 3-34 on or after December 31, 2010.

3-35 (b) Not later than December 31, 2010, an entity, including a
 3-36 private entity, authorized by the state by a general or special law
 3-37 to exercise the power of eminent domain shall submit to the
 3-38 comptroller a letter stating that the entity is authorized by the
 3-39 state to exercise the power of eminent domain and identifying the
 3-40 provision or provisions of law that grant the entity that
 3-41 authority. The entity must send the letter by certified mail,
 3-42 return receipt requested.

3-43 (c) The authority of an entity to exercise the power of
 3-44 eminent domain expires on September 1, 2011, unless the entity
 3-45 submits a letter in accordance with Subsection (b).

3-46 (d) Not later than March 1, 2011, the comptroller shall
 3-47 submit to the governor, the lieutenant governor, the speaker of the
 3-48 house of representatives, the appropriate standing committees of
 3-49 the senate and the house of representatives, and the Texas
 3-50 Legislative Council a report that contains:

3-51 (1) the name of each entity that submitted a letter in
 3-52 accordance with this section; and

3-53 (2) a corresponding list of the provisions granting
 3-54 eminent domain authority as identified by each entity that
 3-55 submitted a letter.

3-56 (e) The Texas Legislative Council shall prepare for
 3-57 consideration by the 83rd Legislature, Regular Session, a
 3-58 nonsubstantive revision of the statutes of this state as necessary
 3-59 to reflect the state of the law after the expiration of an entity's
 3-60 eminent domain authority effective under Subsection (c).

3-61 SECTION 2. Section 21.0111, Property Code, is amended to
 3-62 read as follows:

3-63 Sec. 21.0111. DISCLOSURE OF CERTAIN INFORMATION REQUIRED;
 3-64 INITIAL OFFER. (a) An [~~A governmental~~] entity with eminent domain
 3-65 authority that wants to acquire real property for a public use
 3-66 shall, by certified mail, return receipt requested, disclose to the
 3-67 property owner at the time an offer to purchase or lease the
 3-68 property is made any and all [~~existing~~] appraisal reports produced
 3-69 or acquired by the [~~governmental~~] entity relating specifically to

4-1 the owner's property and prepared in the 10 years preceding the
4-2 ~~[used in determining the final valuation]~~ offer.

4-3 (b) A property owner shall disclose to the ~~[acquiring~~
4-4 ~~governmental]~~ entity seeking to acquire the property any and all
4-5 current and existing appraisal reports produced or acquired by the
4-6 property owner relating specifically to the owner's property and
4-7 used in determining the owner's opinion of value. Such disclosure
4-8 shall take place not later than the earlier of:

4-9 (1) the 10th day after the date ~~[within 10 days]~~ of
4-10 receipt of an appraisal report; or

4-11 (2) the third business day before the date of a special
4-12 commissioners hearing if an appraisal report is to be used at the
4-13 hearing ~~[reports but no later than 10 days prior to the special~~
4-14 ~~commissioner's hearing]~~.

4-15 (c) The initial offer to purchase made by the entity must
4-16 also include:

4-17 (1) a copy of this section;

4-18 (2) a written estimate of:

4-19 (A) the fair market value of the property the
4-20 entity is offering to acquire; and

4-21 (B) the amount of damages to the property owner's
4-22 remaining property, if any, that will result from the acquisition;
4-23 and

4-24 (3) a statement that the property owner has a right to
4-25 make a written request to the entity for an appraisal of the
4-26 property, at the entity's expense.

4-27 (d) An entity seeking to acquire property that the entity is
4-28 authorized to obtain through the use of eminent domain may not
4-29 include a confidentiality provision in an offer or agreement to
4-30 acquire the property. The entity shall inform the owner of the
4-31 property that the owner has the right to:

4-32 (1) discuss any offer or agreement regarding the
4-33 entity's acquisition of the property with others; or

4-34 (2) keep the offer or agreement confidential.

4-35 (e) A subsequent bona fide purchaser for value from the
4-36 acquiring ~~[governmental]~~ entity may conclusively presume that the
4-37 requirement of this section has been met. This section does not
4-38 apply to acquisitions of real property for which an ~~[a~~
4-39 ~~governmental]~~ entity does not have eminent domain authority.

4-40 SECTION 3. Subchapter B, Chapter 21, Property Code, is
4-41 amended by adding Section 21.0113 to read as follows:

4-42 Sec. 21.0113. BONA FIDE OFFER REQUIRED. (a) An entity
4-43 with eminent domain authority that wants to acquire real property
4-44 for a public use must make a bona fide offer to acquire the property
4-45 from the property owner voluntarily.

4-46 (b) An entity with eminent domain authority has made a bona
4-47 fide offer if:

4-48 (1) a final offer is made in writing to a property
4-49 owner;

4-50 (2) the final offer is made on or after the 30th day
4-51 after the date the entity initially contacts the property owner;

4-52 (3) before making a final offer, the entity obtains a
4-53 written appraisal from a certified appraiser of the value of the
4-54 property being acquired and the damages, if any, to any remaining
4-55 property;

4-56 (4) the final offer is equal to or greater than the
4-57 amount of the written appraisal obtained by the entity;

4-58 (5) the following items are included with the final
4-59 offer or have been previously provided to the owner by the entity:

4-60 (A) a copy of the written appraisal;

4-61 (B) a copy of the deed, easement, or other
4-62 instrument conveying the property sought to be acquired; and

4-63 (C) a landowner's bill of rights statement; and

4-64 (6) the entity provides a property owner with at least
4-65 14 days to respond to the final offer and the property owner does
4-66 not agree to the terms of the final offer within that time.

4-67 SECTION 4. Section 21.012, Property Code, is amended to
4-68 read as follows:

4-69 Sec. 21.012. CONDEMNATION PETITION. (a) If an entity ~~[the~~

5-1 ~~United States, this state, a political subdivision of this state, a~~
 5-2 ~~corporation]~~ with eminent domain authority~~[, or an irrigation,~~
 5-3 ~~water improvement, or water power control district created by law]~~
 5-4 wants to acquire real property for public use but is unable to agree
 5-5 with the owner of the property on the amount of damages, the
 5-6 ~~[condemning]~~ entity may begin a condemnation proceeding by filing a
 5-7 petition in the proper court.

5-8 (b) The petition must:

- 5-9 (1) describe the property to be condemned;
 5-10 (2) state with specificity the public use [purpose]
 5-11 for which the entity intends to acquire [use] the property;
 5-12 (3) state the name of the owner of the property if the
 5-13 owner is known;
 5-14 (4) state that the entity and the property owner are
 5-15 unable to agree on the damages; ~~[and]~~
 5-16 (5) if applicable, state that the entity provided the
 5-17 property owner with the landowner's bill of rights statement in
 5-18 accordance with Section 21.0112; and
 5-19 (6) state that the entity made a bona fide offer to
 5-20 acquire the property from the property owner voluntarily.

5-21 (c) An entity that files a petition under this section must
 5-22 provide a copy of the petition to the property owner by certified
 5-23 mail, return receipt requested.

5-24 SECTION 5. Subsection (a), Section 21.014, Property Code,
 5-25 is amended to read as follows:

5-26 (a) The judge of a court in which a condemnation petition is
 5-27 filed or to which an eminent domain case is assigned shall appoint
 5-28 three disinterested real property owners ~~[freeholders]~~ who reside
 5-29 in the county as special commissioners to assess the damages of the
 5-30 owner of the property being condemned. The judge appointing the
 5-31 special commissioners shall give preference to persons agreed on by
 5-32 the parties. The judge shall provide each party a reasonable period
 5-33 to strike one of the three commissioners appointed by the judge. If
 5-34 a person fails to serve as a commissioner or is struck by a party to
 5-35 the suit, the judge shall [may] appoint a replacement.

5-36 SECTION 6. Subsection (a), Section 21.015, Property Code,
 5-37 is amended to read as follows:

5-38 (a) The special commissioners in an eminent domain
 5-39 proceeding shall promptly schedule a hearing for the parties at the
 5-40 earliest practical time but may not schedule a hearing to assess
 5-41 damages before the 20th day after the date the special
 5-42 commissioners were appointed. The special commissioners shall
 5-43 schedule a hearing for the parties [and] at a place that is as near
 5-44 as practical to the property being condemned or at the county seat
 5-45 of the county in which the proceeding is being held.

5-46 SECTION 7. Subsection (b), Section 21.016, Property Code,
 5-47 is amended to read as follows:

5-48 (b) Notice of the hearing must be served on a party not later
 5-49 than the 20th ~~[11th]~~ day before the day set for the hearing. A
 5-50 person competent to testify may serve the notice.

5-51 SECTION 8. Section 21.023, Property Code, is amended to
 5-52 read as follows:

5-53 Sec. 21.023. DISCLOSURE OF INFORMATION REQUIRED AT TIME OF
 5-54 ACQUISITION. An [A governmental] entity with eminent domain
 5-55 authority shall disclose in writing to the property owner, at the
 5-56 time of acquisition of the property through eminent domain, that:

5-57 (1) the owner or the owner's heirs, successors, or
 5-58 assigns may be [are] entitled to:

5-59 (A) repurchase the property under Subchapter E
 5-60 [if the public use for which the property was acquired through
 5-61 eminent domain is canceled before the 10th anniversary of the date
 5-62 of acquisition]; or

5-63 (B) request from the entity certain information
 5-64 relating to the use of the property and any actual progress made
 5-65 toward that use; and

5-66 (2) the repurchase price is the price paid to the owner
 5-67 by the entity at the time the entity acquired the property through
 5-68 eminent domain [fair market value of the property at the time the
 5-69 public use was canceled].

6-1 SECTION 9. Subchapter B, Chapter 21, Property Code, is
6-2 amended by adding Section 21.025 to read as follows:

6-3 Sec. 21.025. PRODUCTION OF INFORMATION BY CERTAIN ENTITIES.

6-4 (a) Notwithstanding any other law, an entity that is not subject
6-5 to Chapter 552, Government Code, and is authorized by law to acquire
6-6 private property through the use of eminent domain is required to
6-7 produce information as provided by this section if the information
6-8 is:

6-9 (1) requested by a person who owns property that is the
6-10 subject of a proposed or existing eminent domain proceeding; and

6-11 (2) related to the taking of the person's private
6-12 property by the entity through the use of eminent domain.

6-13 (b) An entity described by Subsection (a) is required under
6-14 this section only to produce information relating to the
6-15 condemnation of the specific property owned by the requestor as
6-16 described in the request. A request under this section must contain
6-17 sufficient details to allow the entity to identify the specific
6-18 tract of land in relation to which the information is sought.

6-19 (c) The entity shall respond to a request in accordance with
6-20 the Texas Rules of Civil Procedure as if the request was made in a
6-21 matter pending before a state district court.

6-22 (d) Exceptions to disclosure provided by this chapter and
6-23 the Texas Rules of Civil Procedure apply to the disclosure of
6-24 information under this section.

6-25 (e) Jurisdiction to enforce the provisions of this section
6-26 resides in:

6-27 (1) the court in which the condemnation was initiated;
6-28 or

6-29 (2) if the condemnation proceeding has not been
6-30 initiated:

6-31 (A) a court that would have jurisdiction over a
6-32 proceeding to condemn the requestor's property; or

6-33 (B) a court with eminent domain jurisdiction in
6-34 the county in which the entity has its principal place of business.

6-35 (f) If the entity refuses to produce information requested
6-36 in accordance with this section and the court determines that the
6-37 refusal violates this section, the court may award the requestor's
6-38 reasonable attorney's fees incurred to compel the production of the
6-39 information.

6-40 SECTION 10. Subsection (d), Section 21.042, Property Code,
6-41 is amended to read as follows:

6-42 (d) In estimating injury or benefit under Subsection (c),
6-43 the special commissioners shall consider an injury or benefit that
6-44 is peculiar to the property owner and that relates to the property
6-45 owner's ownership, use, or enjoyment of the particular parcel of
6-46 real property, including a material impairment of direct access on
6-47 or off the remaining property that affects the market value of the
6-48 remaining property, but they may not consider an injury or benefit
6-49 that the property owner experiences in common with the general
6-50 community, including circuitry of travel and diversion of traffic.
6-51 In this subsection, "direct access" means ingress and egress on or
6-52 off a public road, street, or highway at a location or locations
6-53 where the remaining property adjoins that road, street, or highway.

6-54 SECTION 11. Subsections (a) and (b), Section 21.046,
6-55 Property Code, are amended to read as follows:

6-56 (a) A department, agency, instrumentality, or political
6-57 subdivision of this state shall ~~may~~ provide a relocation advisory
6-58 service for an individual, a family, a business concern, a farming
6-59 or ranching operation, or a nonprofit organization that ~~[if the~~
6-60 ~~service]~~ is compatible with the Federal Uniform Relocation
6-61 Assistance and Real Property Acquisition Policies Act of 1970
6-62 [Advisory Program], 42 U.S.C.A. 4601 ~~[23 U.S.C.A. 501]~~, et seq.

6-63 (b) This state or a political subdivision of this state
6-64 shall ~~may~~, as a cost of acquiring real property, pay moving
6-65 expenses and rental supplements, make relocation payments, provide
6-66 financial assistance to acquire replacement housing, and
6-67 compensate for expenses incidental to the transfer of the property
6-68 if an individual, a family, the personal property of a business, a
6-69 farming or ranching operation, or a nonprofit organization is

7-1 displaced in connection with the acquisition.
 7-2 SECTION 12. The heading to Section 21.047, Property Code,
 7-3 is amended to read as follows:
 7-4 Sec. 21.047. ASSESSMENT OF COSTS AND FEES.
 7-5 SECTION 13. Section 21.047, Property Code, is amended by
 7-6 adding Subsection (d) to read as follows:
 7-7 (d) If a court hearing a suit under this chapter determines
 7-8 that a condemnor did not make a bona fide offer to acquire the
 7-9 property from the property owner voluntarily as required by Section
 7-10 21.0113, the court shall abate the suit, order the condemnor to make
 7-11 a bona fide offer, and order the condemnor to pay:
 7-12 (1) all costs as provided by Subsection (a); and
 7-13 (2) any reasonable attorney's fees incurred by the
 7-14 property owner that are directly related to the violation.
 7-15 SECTION 14. Subchapter E, Chapter 21, Property Code, is
 7-16 amended to read as follows:
 7-17 SUBCHAPTER E. REPURCHASE OF REAL PROPERTY FROM CONDEMNING
 7-18 [GOVERNMENTAL] ENTITY
 7-19 Sec. 21.101. RIGHT OF REPURCHASE [APPLICABILITY]. (a) A
 7-20 person from whom [Except as provided in Subsection (b), this
 7-21 subchapter applies only to] a real property interest is acquired by
 7-22 an [a governmental] entity through eminent domain for a public use,
 7-23 or that person's heirs, successors, or assigns, is entitled to
 7-24 repurchase the property as provided by this subchapter if:
 7-25 (1) the public use for which the property was acquired
 7-26 through eminent domain is [that was] canceled;
 7-27 (2) no actual progress is made toward the public use
 7-28 for which the property was acquired between the date of acquisition
 7-29 and the 10th anniversary of that date; or
 7-30 (3) the property becomes unnecessary for the public
 7-31 use for which the property was acquired [before the 10th
 7-32 anniversary of the date of acquisition].
 7-33 (b) In this section, "actual progress" means the completion
 7-34 of two or more of the following actions:
 7-35 (1) the performance of a significant amount of labor
 7-36 to develop the property or other property acquired for the same
 7-37 public use project for which the property owner's property was
 7-38 acquired;
 7-39 (2) the furnishing of a significant amount of
 7-40 materials to develop the property or other property acquired for
 7-41 the same public use project for which the property owner's property
 7-42 was acquired;
 7-43 (3) the hiring of and performance of a significant
 7-44 amount of work by an architect, engineer, or surveyor to prepare a
 7-45 plan or plat that includes the property or other property acquired
 7-46 for the same public use project for which the property owner's
 7-47 property was acquired;
 7-48 (4) application for state or federal funds to develop
 7-49 the property or other property acquired for the same public use
 7-50 project for which the property owner's property was acquired;
 7-51 (5) application for a state or federal permit to
 7-52 develop the property or other property acquired for the same public
 7-53 use project for which the property owner's property was acquired;
 7-54 or
 7-55 (6) the acquisition of a tract or parcel of real
 7-56 property adjacent to the property for the same public use project
 7-57 for which the owner's property was acquired [This subchapter does
 7-58 not apply to a right-of-way under the jurisdiction of:
 7-59 [(1) a county,
 7-60 [(2) a municipality; or
 7-61 [(3) the Texas Department of Transportation].
 7-62 (c) A district court may determine all issues in any suit
 7-63 regarding the repurchase of a real property interest acquired
 7-64 through eminent domain by the former property owner or the owner's
 7-65 heirs, successors, or assigns.
 7-66 Sec. 21.102. NOTICE TO PREVIOUS PROPERTY OWNER REQUIRED [AT
 7-67 TIME OF CANCELLATION OF PUBLIC USE]. Not later than the 180th day
 7-68 after the date an entity that acquired a real property interest
 7-69 through eminent domain determines that the former property owner is

8-1 entitled to repurchase the property under Section 21.101 [~~of the~~
 8-2 ~~cancellation of the public use for which real property was acquired~~
 8-3 ~~through eminent domain from a property owner under Subchapter B~~],
 8-4 the [~~governmental~~] entity shall send by certified mail, return
 8-5 receipt requested, to the property owner or the owner's heirs,
 8-6 successors, or assigns a notice containing:

8-7 (1) an identification, which is not required to be a
 8-8 legal description, of the property that was acquired;

8-9 (2) an identification of the public use for which the
 8-10 property had been acquired and a statement that:

8-11 (A) the public use has been canceled;

8-12 (B) no actual progress was made toward the public
 8-13 use; or

8-14 (C) the property has become unnecessary for the
 8-15 public use; and

8-16 (3) a description of the person's right under this
 8-17 subchapter to repurchase the property.

8-18 Sec. 21.1021. REQUESTS FOR INFORMATION REGARDING CONDEMNED
 8-19 PROPERTY. (a) On or after the 10th anniversary of the date on
 8-20 which real property was acquired by an entity through eminent
 8-21 domain, a property owner or the owner's heirs, successors, or
 8-22 assigns may request that the condemning entity make a determination
 8-23 and provide a statement and other relevant information regarding:

8-24 (1) whether the public use for which the property was
 8-25 acquired has been canceled;

8-26 (2) whether any actual progress was made toward the
 8-27 public use between the date of acquisition and the 10th anniversary
 8-28 of that date, including an itemized description of the progress
 8-29 made, if applicable; and

8-30 (3) whether the property has become unnecessary for
 8-31 the public use of the property.

8-32 (b) A request under this section must contain sufficient
 8-33 detail to allow the entity to identify the specific tract of land in
 8-34 relation to which the information is sought.

8-35 (c) Not later than the 90th day following the receipt of the
 8-36 request for information, the entity shall send a written response
 8-37 by certified mail, return receipt requested, to the requestor.

8-38 Sec. 21.103. RESALE OF PROPERTY; PRICE. (a) Not later
 8-39 than the 180th day after the date of the postmark on a [~~the~~] notice
 8-40 sent under Section 21.102 or a response to a request made under
 8-41 Section 21.1021 that indicates that the property owner or the
 8-42 owner's heirs, successors, or assigns is entitled to repurchase the
 8-43 property interest in accordance with Section 21.101, the property
 8-44 owner or the owner's heirs, successors, or assigns must notify the
 8-45 [~~governmental~~] entity of the person's intent to repurchase the
 8-46 property interest under this subchapter.

8-47 (b) As soon as practicable after receipt of a notice of
 8-48 intent to repurchase [~~the notification~~] under Subsection (a), the
 8-49 [~~governmental~~] entity shall offer to sell the property interest to
 8-50 the person for the price paid to the owner by the entity at the time
 8-51 the entity acquired the property through eminent domain [~~fair~~
 8-52 market value of the property at the time the public use was
 8-53 canceled]. The person's right to repurchase the property expires
 8-54 on the 90th day after the date on which the [~~governmental~~] entity
 8-55 makes the offer.

8-56 SECTION 15. Section 202.021, Transportation Code, is
 8-57 amended by adding Subsection (j) to read as follows:

8-58 (j) The standard for determination of the fair value of the
 8-59 state's interest in access rights to a highway right-of-way is the
 8-60 same legal standard that is applied by the commission in the:

8-61 (1) acquisition of access rights under Subchapter D,
 8-62 Chapter 203; and

8-63 (2) payment of damages in the exercise of the
 8-64 authority, under Subchapter C, Chapter 203, for impairment of
 8-65 highway access to or from real property where the real property
 8-66 adjoins the highway.

8-67 SECTION 16. (a) Section 552.0037, Government Code, is
 8-68 repealed.

8-69 (b) Section 21.024, Property Code, is repealed.

9-1 (c) Section 49.2205, Water Code, is repealed.
9-2 SECTION 17. The changes in law made by Chapter 2206,
9-3 Government Code, and Chapter 21, Property Code, as amended by this
9-4 Act, apply only to a condemnation proceeding in which the petition
9-5 is filed on or after the effective date of this Act and to any
9-6 property condemned through the proceeding. A condemnation
9-7 proceeding in which the petition is filed before the effective date
9-8 of this Act and any property condemned through the proceeding are
9-9 governed by the law in effect immediately before that date, and that
9-10 law is continued in effect for that purpose.

9-11 SECTION 18. The change in law made by this Act to Section
9-12 202.021, Transportation Code, applies only to a sale or transfer
9-13 under that section that occurs on or after the effective date of
9-14 this Act. A sale or transfer before the effective date of this Act
9-15 is governed by the law applicable to the sale or transfer
9-16 immediately before the effective date of this Act, and that law is
9-17 continued in effect for that purpose.

9-18 SECTION 19. This Act takes effect immediately if it
9-19 receives a vote of two-thirds of all the members elected to each
9-20 house, as provided by Section 39, Article III, Texas Constitution.
9-21 If this Act does not receive the vote necessary for immediate
9-22 effect, this Act takes effect September 1, 2009.

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