

By: Bell

H.B. No. 308

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the acquisition of property by an entity with eminent  
3 domain authority.

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

5 SECTION 1. Section 21.0111, Property Code, is amended by  
6 adding Subsection (a-1) to read as follows:

7 (a-1) After making an offer to which Subsection (a) applies,  
8 the entity shall disclose to the property owner any new, amended, or  
9 updated appraisal report produced or acquired by or on behalf of the  
10 entity after making the offer and used in determining the entity's  
11 opinion of value. A disclosure required by this subsection must be  
12 made not later than the earlier of:

13 (1) the 10th day after the date the entity receives the  
14 appraisal report; or

15 (2) the third business day before the date of a special  
16 commissioner's hearing if the appraisal report is to be used at the  
17 hearing.

18 SECTION 2. Section 21.012, Property Code, is amended by  
19 adding Subsection (d) to read as follows:

20 (d) In accordance with Section 21.019(b-1), a court shall  
21 dismiss a condemnation proceeding unless the entity that files a  
22 petition under this section proves to the court that:

23 (1) the petition meets the requirements of Subsection  
24 (b); and

1           (2) the entity complied with Subsection (c).

2           SECTION 3. Section 21.019, Property Code, is amended by  
3 amending Subsections (a), (b), and (c) and adding Subsection (b-1)  
4 to read as follows:

5           (a) A party that files a condemnation petition may move to  
6 dismiss, wholly or partly, the proceedings, and the court shall  
7 conduct a hearing on the motion. However, after the special  
8 commissioners have made an award, in an effort to obtain a lower  
9 award a condemnor may not dismiss, wholly or partly, the  
10 condemnation proceedings merely to institute new proceedings that  
11 involve substantially the same condemnation against the same  
12 property owner.

13           (b) A court that hears and grants a motion to dismiss,  
14 wholly or partly, a condemnation proceeding made by a condemnor  
15 under Subsection (a) shall make an allowance to the property owner  
16 for reasonable and necessary fees for attorneys, appraisers, and  
17 photographers and for the other expenses incurred by the property  
18 owner to the date of the hearing.

19           (b-1) The court shall dismiss a condemnation proceeding if  
20 the court finds that the party that filed the condemnation petition  
21 failed to comply with any provision of Section 21.0111, 21.0112,  
22 21.0113, or 21.012. A court that grants a motion to dismiss under  
23 this subsection shall make an allowance to the property owner for  
24 reasonable and necessary fees for attorneys, appraisers, and  
25 photographers and for the other expenses incurred by the property  
26 owner to the date of the hearing.

27           (c) Except as provided by Subsection (b-1), a [A] court that

1 hears and grants a motion to dismiss a condemnation proceeding made  
2 by a property owner seeking a judicial denial of the right to  
3 condemn or that otherwise renders a judgment denying the right to  
4 condemn may make an allowance to the property owner for reasonable  
5 and necessary fees for attorneys, appraisers, and photographers and  
6 for the other expenses incurred by the property owner to the date of  
7 the hearing or judgment.

8 SECTION 4. Sections 21.0195(b) and (c), Property Code, are  
9 amended to read as follows:

10 (b) The department may move to dismiss, wholly or partly, a  
11 proceeding it files, and the court shall conduct a hearing on the  
12 motion. The court may grant the motion only if the court determines  
13 that the property owner's interest will not be materially affected  
14 by the dismissal. The department may not dismiss, wholly or partly,  
15 the condemnation proceedings merely to institute new proceedings  
16 that involve substantially the same condemnation against the same  
17 property owner solely to obtain a lower condemnation award.

18 (c) If a court dismisses, wholly or partly, a condemnation  
19 proceeding on the motion of the department or as a result of the  
20 failure of the department to bring the proceeding properly, the  
21 court shall make an allowance to the property owner for the value of  
22 the department's use of the property while in possession of the  
23 property, any damage that the condemnation has caused to the  
24 property owner, and any expenses the property owner has incurred in  
25 connection with the condemnation, including reasonable and  
26 necessary fees for attorneys.

27 SECTION 5. Section 21.047(d), Property Code, is repealed.

1           SECTION 6. (a) Section 21.0111, Property Code, as amended  
2 by this Act, applies only to the acquisition of real property in  
3 connection with an initial offer made under Section 21.0113,  
4 Property Code, on or after the effective date of this Act. An  
5 acquisition of real property in connection with an initial offer  
6 made under Section 21.0113, Property Code, before the effective  
7 date of this Act is governed by the law applicable to the  
8 acquisition immediately before the effective date of this Act, and  
9 that law is continued in effect for that purpose.

10           (b) Sections 21.012, 21.019, and 21.0195, Property Code, as  
11 amended by this Act, and the repeal of Section 21.047(d), Property  
12 Code, by this Act apply only to an eminent domain proceeding  
13 commenced on or after the effective date of this Act. An eminent  
14 domain proceeding commenced before the effective date of this Act  
15 is governed by the law applicable to the proceeding immediately  
16 before the effective date of this Act, and that law is continued in  
17 effect for that purpose.

18           SECTION 7. This Act takes effect December 1, 2017.