

By: Kolkhorst, et al.

S.B. No. 740

A BILL TO BE ENTITLED

1 AN ACT
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 402.031(b), Government Code, is amended
6 to read as follows:

7 (b) The landowner's bill of rights must notify each property
8 owner that the property owner has the right to:

9 (1) receive notice of the proposed acquisition of the
10 owner's property;

11 (2) contact and speak directly with an employee of the
12 entity proposing to acquire the property who is qualified to
13 discuss the acquisition of the property;

14 (3) receive a bona fide offer from, make a
15 counteroffer to, and seek to negotiate terms and conditions with
16 ~~[good faith effort to negotiate by]~~ the entity proposing to acquire
17 the property;

18 (4) consult with a licensed real estate broker or
19 sales agent, an attorney, an appraiser, or any other person
20 regarding the proposed acquisition, offer of compensation, or other
21 related matters at any time;

22 (5) have ~~[(3)]~~ an assessment made of damages to the
23 owner that will result from the taking of the property;

24 (6) be provided ~~[(4)]~~ a hearing under Chapter 21,

1 Property Code, including a hearing on the assessment of damages;
2 [~~and~~]

3 (7) [~~(5) — an~~] appeal [~~of~~] a judgment in a condemnation
4 proceeding, including to [~~an~~] appeal [~~of~~] an assessment of damages;
5 and

6 (8) contact the office of the attorney general for
7 more information regarding a property owner's rights with respect
8 to the condemnation process.

9 SECTION 2. Section 1101.002, Occupations Code, is amended
10 by amending Subdivision (4) and adding Subdivisions (4-a), (6-a),
11 and (6-b) to read as follows:

12 (4) "License" means a broker license or sales agent
13 license issued under this chapter. The term does not include a
14 right-of-way agent license.

15 (4-a) "License holder" means a broker or sales agent
16 licensed under this chapter. The term does not include a holder of
17 a right-of-way agent license.

18 (6-a) "Right-of-way agent license" means a license
19 issued under Subchapter K.

20 (6-b) "Right-of-way agent license holder" means a
21 person licensed under Subchapter K.

22 SECTION 3. Section 1101.151(a), Occupations Code, is
23 amended to read as follows:

24 (a) The commission shall:

25 (1) administer this chapter and Chapter 1102;

26 (2) adopt rules and establish standards relating to
27 permissible forms of advertising by a license holder acting as a

1 residential rental locator;

2 (3) maintain a list of right-of-way agent license
3 ~~[registry of certificate]~~ holders; and

4 (4) design and adopt a seal.

5 SECTION 4. Section 1101.152(a), Occupations Code, is
6 amended to read as follows:

7 (a) The commission shall adopt rules to charge and collect
8 fees in amounts reasonable and necessary to cover the costs of
9 administering this chapter, including a fee for:

10 (1) filing an original application for a broker
11 license;

12 (2) renewal of a broker license;

13 (3) filing an original application for a sales agent
14 license;

15 (4) renewal of a sales agent license;

16 (5) filing an original application for a ~~[registration~~
17 ~~as an easement or]~~ right-of-way agent license;

18 (5-a) renewal of a right-of-way agent license;

19 (6) filing an application for a license examination;

20 (7) filing a request for a branch office license;

21 (8) filing a request for a change of place of business,
22 change of name, return to active status, or change of sponsoring
23 broker;

24 (9) filing a request to replace a lost or destroyed
25 license or right-of-way agent license ~~[or certificate of~~
26 ~~registration]~~;

27 (10) filing an application for approval of an

1 education program under Subchapter G;

2 (11) annual operation of an education program under
3 Subchapter G;

4 (12) filing an application for approval of an
5 instructor of qualifying real estate courses;

6 (13) transcript evaluation;

7 (14) preparing a license ~~[or registration]~~ history;

8 (15) filing a request for a moral character
9 determination; and

10 (16) conducting a criminal history check for issuing
11 or renewing a license.

12 SECTION 5. Section 1101.154(a), Occupations Code, is
13 amended to read as follows:

14 (a) The fee for the issuance or renewal of a:

15 (1) broker license is the amount of the fee set under
16 Section 1101.152 and an additional \$70 fee;

17 (2) sales agent license is the amount of the fee set
18 under Section 1101.152 and an additional \$20 fee; and

19 (3) right-of-way agent license ~~[certificate of~~
20 ~~registration]~~ is the amount of the fee set under Section 1101.152
21 and an additional \$20 fee.

22 SECTION 6. Section 1101.205, Occupations Code, is amended
23 to read as follows:

24 Sec. 1101.205. COMPLAINT INVESTIGATION OF RIGHT-OF-WAY
25 AGENT LICENSE ~~[CERTIFICATE]~~ HOLDER. The commission shall
26 investigate a signed complaint received by the commission that
27 relates to an act of a right-of-way agent license ~~[certificate]~~

1 holder or a person required to hold a right-of-way agent license
2 [~~certificate~~] under Subchapter K. Section 1101.204 applies to an
3 investigation under this section.

4 SECTION 7. Subchapter K, Chapter 1101, Occupations Code, is
5 amended to read as follows:

6 SUBCHAPTER K. RIGHT-OF-WAY AGENT LICENSE [~~CERTIFICATE~~]

7 REQUIREMENTS

8 Sec. 1101.501. RIGHT-OF-WAY AGENT LICENSE [~~CERTIFICATE~~]
9 REQUIRED. (a) A person may not sell, buy, lease, or transfer an
10 easement or right-of-way [~~for another,~~] for compensation or with
11 the expectation of receiving compensation[~~,~~] for an entity with
12 eminent domain authority or for use in connection with
13 telecommunication, utility, railroad, or pipeline service unless
14 the person:

15 (1) holds a broker license or sales agent license
16 issued under this chapter; or

17 (2) holds a right-of-way agent license [~~certificate of~~
18 ~~registration~~] issued under this subchapter.

19 (b) Subsection (a) does not apply to:

20 (1) an entity with eminent domain authority or the
21 entity's employee; or

22 (2) an attorney licensed in this state.

23 Sec. 1101.502. ELIGIBILITY REQUIREMENTS FOR RIGHT-OF-WAY
24 AGENT LICENSE [~~CERTIFICATE~~]. (a) To be eligible to receive or
25 renew a right-of-way agent license [~~a certificate of registration~~
26 ~~or a renewal certificate under this subchapter~~], a person must
27 [~~be~~]:

1 (1) be, at the time of application:

2 (A) at least 18 years of age; and

3 (B) ~~[(2)]~~ a citizen of the United States or a
4 lawfully admitted alien;

5 (2) satisfy the commission as to the applicant's
6 honesty, trustworthiness, and integrity; and

7 (3) complete the required courses of study, including
8 qualifying education requirements, prescribed by this subchapter.

9 (b) To be eligible to receive or renew a right-of-way agent
10 license [~~a certificate of registration or a renewal certificate~~
11 ~~under this subchapter~~], a business entity must designate as its
12 agent one of its managing officers who holds a right-of-way agent
13 license issued [~~is registered~~] under this subchapter.

14 Sec. 1101.503. ISSUANCE OF RIGHT-OF-WAY AGENT LICENSE
15 [~~CERTIFICATE~~]. (a) The commission shall issue a right-of-way
16 agent license [~~certificate of registration~~] to an applicant who
17 meets the requirements for a right-of-way agent license under this
18 subchapter [~~certificate of registration~~].

19 (b) The right-of-way agent license [~~certificate~~] remains in
20 effect for the period prescribed by the commission if the
21 right-of-way agent license [~~certificate~~] holder complies with this
22 chapter, including the requirements of this subchapter, and pays
23 the appropriate renewal fees.

24 Sec. 1101.504. RIGHT-OF-WAY AGENT LICENSE DURATION,
25 [~~CERTIFICATE~~] EXPIRATION, AND RENEWAL. The provisions of Section
26 1101.451 governing the duration, expiration, and renewal of a
27 broker or sales agent license apply [~~certificate of registration~~

1 ~~are subject to the same provisions as are applicable under Section~~
2 ~~1101.451]~~ to the duration, expiration, and renewal of a
3 right-of-way agent license issued under this subchapter.

4 Sec. 1101.5041. CRIMINAL HISTORY RECORD INFORMATION
5 REQUIREMENT FOR RIGHT-OF-WAY AGENT LICENSE [~~CERTIFICATE~~]. An
6 applicant for an original [~~certificate of registration~~] or renewal
7 right-of-way agent license [~~of a certificate of registration~~] must
8 comply with the criminal history record check requirements of
9 Section 1101.3521.

10 Sec. 1101.505. DENIAL OF RIGHT-OF-WAY AGENT LICENSE
11 [~~CERTIFICATE~~]. The denial of a right-of-way agent license
12 [~~certificate of registration~~] is subject to the same provisions as
13 are applicable under Section 1101.364 to the denial of a broker or
14 sales agent license.

15 Sec. 1101.506. CHANGE OF ADDRESS. Not later than the 10th
16 day after the date a right-of-way agent license [~~certificate~~]
17 holder moves its place of business from a previously designated
18 address, the right-of-way agent license holder shall:

- 19 (1) notify the commission of the move; and
20 (2) obtain a new right-of-way agent license
21 [~~certificate of registration~~] that reflects the address of the new
22 place of business.

23 Sec. 1101.507. DISPLAY OF RIGHT-OF-WAY AGENT LICENSE
24 [~~CERTIFICATE~~]. A right-of-way agent license [~~certificate~~] holder
25 shall prominently display at all times the holder's right-of-way
26 agent license [~~certificate of registration~~] in the right-of-way
27 agent license holder's place of business.

1 Sec. 1101.508. NOTICE TO CONSUMERS. The commission by rule
2 may:

3 (1) prescribe the text of consumer notices regarding a
4 right-of-way agent license holder; and

5 (2) establish the methods by which a right-of-way
6 agent license holder provides a consumer notice or the statement
7 prepared and provided under Section 402.031, Government Code.

8 Sec 1101.509. QUALIFYING EDUCATION REQUIREMENTS. (a) The
9 commission by rule shall approve coursework that an applicant must
10 successfully complete to be eligible for a right-of-way agent
11 license under this subchapter.

12 (b) An applicant for a right-of-way agent license shall
13 submit evidence satisfactory to the commission that the applicant
14 has completed at least 15 classroom hours of right-of-way agent
15 coursework approved by the commission in:

16 (1) the law of eminent domain, including the rights of
17 property owners;

18 (2) appropriate standards of professionalism in
19 contacting and conducting negotiations with property owners; and

20 (3) ethical considerations in the performance of
21 right-of-way acquisition services.

22 Sec. 1101.510. CONTINUING EDUCATION. (a) To be eligible
23 to renew a right-of-way agent license, the right-of-way agent
24 license holder must submit evidence satisfactory to the commission
25 that the right-of-way agent license holder successfully completed
26 at least six classroom hours of continuing education approved by
27 the commission.

1 (b) The commission by rule shall prescribe the title,
2 content, administration, and duration of continuing education
3 courses that a right-of-way agent license holder must successfully
4 complete to renew a right-of-way agent license under this
5 subchapter.

6 SECTION 8. Sections 1101.601 and 1101.602, Occupations
7 Code, are amended to read as follows:

8 Sec. 1101.601. REAL ESTATE RECOVERY TRUST ACCOUNT.

9 (a) The commission shall maintain a real estate recovery trust
10 account to reimburse aggrieved persons who suffer actual damages
11 caused by an act described by Section 1101.602 committed by:

12 (1) a license holder;

13 (2) a right-of-way agent license [~~certificate~~]
14 holder; or

15 (3) a person who does not hold a license or
16 right-of-way agent license [~~certificate~~] and who is an employee or
17 agent of a license holder or right-of-way agent license
18 [~~certificate~~] holder.

19 (b) The license holder or right-of-way agent license
20 [~~certificate~~] holder must have held the license or right-of-way
21 agent license [~~certificate~~] at the time the act was committed.

22 Sec. 1101.602. ENTITLEMENT TO REIMBURSEMENT. An aggrieved
23 person is entitled to reimbursement from the trust account if a
24 person described by Section 1101.601 engages in conduct that
25 requires a license or right-of-way agent license [~~certificate of~~
26 ~~registration~~] under this chapter and is described by Section
27 1101.652(a-1)(1) or (b), if the person is a license holder, or

1 Section 1101.653(1), (2), (3), or (4), if the person is a
2 right-of-way agent license [~~certificate~~] holder.

3 SECTION 9. Sections 1101.603(a) and (e), Occupations Code,
4 are amended to read as follows:

5 (a) In addition to other fees required by this chapter, the
6 commission shall collect a fee of \$10 to deposit to the credit of
7 the trust account from an applicant for an original license or
8 right-of-way agent license [~~certificate of registration~~].

9 (e) On a determination by the commission at any time that
10 the balance in the trust account is less than \$1 million, each
11 license holder or right-of-way agent license [~~certificate~~] holder
12 at the next renewal must pay, in addition to the renewal fee, an
13 additional fee of \$10. The commission shall deposit the additional
14 fee to the credit of the trust account.

15 SECTION 10. Section 1101.605(b), Occupations Code, is
16 amended to read as follows:

17 (b) When an aggrieved person brings an action for a judgment
18 that may result in an agreed judgment and order for payment from the
19 trust account, the aggrieved person and the license holder or
20 right-of-way agent license [~~certificate~~] holder against whom the
21 action is brought shall notify the commission in writing before
22 entry of the agreed judgment and deliver a copy of all petitions and
23 pleadings and the proposed agreed judgment to the commission. The
24 commission will notify the parties not later than the 30th day after
25 the date of receiving the documents if the commission intends to
26 relitigate material and relevant issues as to the applicability of
27 the trust account to the agreed judgment as provided by Section

1 1101.608.

2 SECTION 11. Section 1101.606(a), Occupations Code, is
3 amended to read as follows:

4 (a) Except as provided by Subsections (c) and (c-1), an
5 aggrieved person who obtains a court judgment against a license
6 holder or right-of-way agent license [~~certificate~~] holder for an
7 act described by Section 1101.602 may, after final judgment is
8 entered, execution returned nulla bona, and a judgment lien
9 perfected, file a verified claim in the court that entered the
10 judgment.

11 SECTION 12. Section 1101.607, Occupations Code, is amended
12 to read as follows:

13 Sec. 1101.607. ISSUES AT HEARING. At the hearing on the
14 application for payment from the trust account, the aggrieved
15 person must show:

16 (1) that the judgment is based on facts allowing
17 recovery under this subchapter;

18 (2) that the person is not:

19 (A) the spouse of the judgment debtor or the
20 personal representative of the spouse;

21 (B) a license holder or right-of-way agent
22 license [~~certificate~~] holder who is seeking to recover
23 compensation, including a commission, in the real estate
24 transaction that is the subject of the application for payment; or

25 (C) related to the judgment debtor within the
26 first degree by consanguinity;

27 (3) that, according to the best information available,

1 the judgment debtor does not have sufficient attachable assets in
2 this or another state to satisfy the judgment;

3 (4) the amount that may be realized from the sale of
4 assets liable to be sold or applied to satisfy the judgment; and

5 (5) the balance remaining due on the judgment after
6 application of the amount under Subdivision (4).

7 SECTION 13. Sections 1101.610(b) and (c), Occupations Code,
8 are amended to read as follows:

9 (b) Payments from the trust account for claims based on
10 judgments against a single license holder or right-of-way agent
11 license [~~certificate~~] holder may not exceed a total of \$100,000
12 until the license holder or right-of-way agent license
13 [~~certificate~~] holder has reimbursed the trust account for all
14 amounts paid.

15 (c) If the court finds that the total amount of claims
16 against a license holder or right-of-way agent license
17 [~~certificate~~] holder exceeds the limitations in this section, the
18 court shall proportionately reduce the amount payable on each
19 claim.

20 SECTION 14. Section 1101.613, Occupations Code, is amended
21 to read as follows:

22 Sec. 1101.613. EFFECT ON DISCIPLINARY PROCEEDINGS.

23 (a) This subchapter does not limit the commission's authority to
24 take disciplinary action against a license holder or right-of-way
25 agent license [~~certificate~~] holder for a violation of this chapter
26 or a commission rule.

27 (b) A license holder's or right-of-way agent license

1 holder's [~~certificate holder's~~] repayment of all amounts owed to
2 the trust account does not affect another disciplinary proceeding
3 brought under this chapter.

4 SECTION 15. Section 1101.615, Occupations Code, is amended
5 to read as follows:

6 Sec. 1101.615. NOTICE TO CONSUMERS AND SERVICE RECIPIENTS.
7 [~~(a)~~] The commission by rule shall prescribe a notice regarding
8 the availability of payment from the trust account for aggrieved
9 persons and establish methods by which each license holder and
10 right-of-way agent license [~~certificate~~] holder shall provide the
11 notice to consumers and service recipients.

12 SECTION 16. Section 1101.653, Occupations Code, is amended
13 to read as follows:

14 Sec. 1101.653. GROUNDS FOR SUSPENSION OR REVOCATION OF
15 RIGHT-OF-WAY AGENT LICENSE [~~CERTIFICATE~~]. The commission may
16 suspend or revoke a right-of-way agent license [~~certificate of~~
17 ~~registration~~] issued under this chapter if the right-of-way agent
18 license [~~certificate~~] holder:

- 19 (1) engages in dishonest dealing, fraud, unlawful
20 discrimination, or a deceptive act;
- 21 (2) makes a misrepresentation;
- 22 (3) acts in bad faith;
- 23 (4) demonstrates untrustworthiness;
- 24 (5) fails to honor, within a reasonable time, a check
25 issued to the commission after the commission has mailed a request
26 for payment to the right-of-way agent license [~~certificate~~]
27 holder's last known address according to the commission's records;

1 (6) fails to provide to a party to a transaction a
2 written notice prescribed by the commission that:

3 (A) must be given before the party is obligated
4 to sell, buy, lease, or transfer a right-of-way or easement; and

5 (B) contains:

6 (i) the name of the right-of-way agent
7 license [~~certificate~~] holder;

8 (ii) the right-of-way agent license
9 [~~certificate~~] number;

10 (iii) the name of the person the
11 right-of-way agent license [~~certificate~~] holder represents;

12 (iv) a statement advising the party that
13 the party may seek representation from a lawyer or broker in the
14 transaction; and

15 (v) a statement generally advising the
16 party that the right-of-way or easement may affect the value of the
17 property; or

18 (7) disregards or violates this chapter or a
19 commission rule relating to right-of-way agent license
20 [~~certificate~~] holders.

21 SECTION 17. Section 1101.654, Occupations Code, is amended
22 to read as follows:

23 Sec. 1101.654. SUSPENSION OR REVOCATION OF LICENSE OR
24 RIGHT-OF-WAY AGENT LICENSE [~~CERTIFICATE~~] FOR UNAUTHORIZED PRACTICE
25 OF LAW. (a) The commission shall suspend or revoke the license or
26 right-of-way agent license [~~certificate of registration~~] of a
27 license holder or right-of-way agent license [~~certificate~~] holder

1 who is not a licensed attorney in this state and who, for
2 consideration, a reward, or a pecuniary benefit, present or
3 anticipated, direct or indirect, or in connection with the person's
4 employment, agency, or fiduciary relationship as a license holder
5 or right-of-way agent license [~~certificate~~] holder:

6 (1) drafts an instrument, other than a form described
7 by Section 1101.155, that transfers or otherwise affects an
8 interest in real property; or

9 (2) advises a person regarding the validity or legal
10 sufficiency of an instrument or the validity of title to real
11 property.

12 (b) Notwithstanding any other law, a license holder or
13 right-of-way agent license [~~certificate~~] holder who completes a
14 contract form for the sale, exchange, option, or lease of an
15 interest in real property incidental to acting as a broker is not
16 engaged in the unauthorized or illegal practice of law in this state
17 if the form was:

18 (1) adopted by the commission for the type of
19 transaction for which the form is used;

20 (2) prepared by an attorney licensed in this state and
21 approved by the attorney for the type of transaction for which the
22 form is used; or

23 (3) prepared by the property owner or by an attorney
24 and required by the property owner.

25 SECTION 18. The heading to Section 1101.655, Occupations
26 Code, is amended to read as follows:

27 Sec. 1101.655. REVOCATION OF LICENSE [~~OR CERTIFICATE~~] FOR

1 CLAIM ON ACCOUNT.

2 SECTION 19. Sections 1101.655(a), (b), and (c), Occupations
3 Code, are amended to read as follows:

4 (a) The commission shall revoke a license, approval, or
5 right-of-way agent license [~~registration~~] issued under this
6 chapter or Chapter 1102 if:

7 (1) the commission makes a payment from the real
8 estate recovery trust account under Subchapter M on behalf of a
9 license holder or right-of-way agent license [~~registration~~]
10 holder; and

11 (2) the license holder or right-of-way agent license
12 [~~registration~~] holder does not repay the real estate recovery trust
13 account the full amount of a payment made on the license holder's or
14 right-of-way agent license [~~registration~~] holder's behalf before
15 the 31st day after the date the commission provides notice to the
16 license holder or right-of-way agent license [~~registration~~]
17 holder.

18 (b) The commission may probate an order revoking a license,
19 approval, or right-of-way agent license [~~registration~~] under this
20 section.

21 (c) A person is not eligible for a license or right-of-way
22 agent license [~~certificate~~] until the person has repaid in full the
23 amount paid from the account for the person, plus interest at the
24 legal rate.

25 SECTION 20. Section 1101.657(a), Occupations Code, is
26 amended to read as follows:

27 (a) If the commission proposes to deny, suspend, or revoke a

1 person's license or right-of-way agent license [~~certificate of~~
2 ~~registration~~], the person is entitled to a hearing conducted by the
3 State Office of Administrative Hearings.

4 SECTION 21. Section 1101.660(b), Occupations Code, is
5 amended to read as follows:

6 (b) Rules adopted under this section must:

7 (1) provide the complainant and the license holder,
8 right-of-way agent license [~~certificate~~] holder, or regulated
9 entity an opportunity to be heard; and

10 (2) require the presence of:

11 (A) a public member of the commission for a case
12 involving a consumer complaint; and

13 (B) at least two staff members of the commission
14 with experience in the regulatory area that is the subject of the
15 proceeding.

16 SECTION 22. Section 1101.663, Occupations Code, is amended
17 to read as follows:

18 Sec. 1101.663. REAPPLYING AFTER REVOCATION, SURRENDER, OR
19 DENIAL. A person whose license or right-of-way agent license
20 [~~registration~~] has been revoked, a person who has surrendered a
21 license or right-of-way agent license [~~registration~~] issued by the
22 commission, or a person whose application for a license or
23 right-of-way agent license [~~registration~~] has been denied after a
24 hearing under Section 1101.657 may not apply to the commission for a
25 license or right-of-way agent license [~~registration~~] before the
26 second anniversary of the date of the revocation, surrender, or
27 denial.

1 SECTION 23. The heading to Section 1101.753, Occupations
2 Code, is amended to read as follows:

3 Sec. 1101.753. CIVIL PENALTY FOR CERTAIN VIOLATIONS BY
4 BROKER, SALES AGENT, OR RIGHT-OF-WAY AGENT [~~CERTIFICATE HOLDER~~].

5 SECTION 24. Section 1101.753(a), Occupations Code, is
6 amended to read as follows:

7 (a) In addition to injunctive relief under Sections
8 1101.751 and 1101.752, a person who receives a commission or other
9 consideration as a result of acting as a broker or sales agent
10 without holding a license or right-of-way agent license
11 [~~certificate of registration~~] under this chapter is liable to the
12 state for a civil penalty of not less than the amount of money
13 received or more than three times the amount of money received.

14 SECTION 25. The heading to Section 1101.754, Occupations
15 Code, is amended to read as follows:

16 Sec. 1101.754. PRIVATE CAUSE OF ACTION FOR CERTAIN
17 VIOLATIONS BY BROKER, SALES AGENT, OR RIGHT-OF-WAY AGENT
18 [~~CERTIFICATE HOLDER~~].

19 SECTION 26. Section 1101.754(a), Occupations Code, is
20 amended to read as follows:

21 (a) A person who receives a commission or other
22 consideration as a result of acting as a broker or sales agent
23 without holding a license or right-of-way agent license
24 [~~certificate of registration~~] under this chapter is liable to an
25 aggrieved person for a penalty of not less than the amount of money
26 received or more than three times the amount of money received.

27 SECTION 27. The heading to Section 1101.758, Occupations

1 Code, is amended to read as follows:

2 Sec. 1101.758. CRIMINAL PENALTY FOR CERTAIN VIOLATIONS BY
3 BROKER, SALES AGENT, OR RIGHT-OF-WAY AGENT [~~CERTIFICATE HOLDER~~].

4 SECTION 28. Section 1101.758(a), Occupations Code, is
5 amended to read as follows:

6 (a) A person commits an offense if the person acts as a
7 broker or sales agent without holding a license under this chapter
8 or engages in an activity for which a right-of-way agent license
9 [~~certificate of registration~~] is required under this chapter
10 without holding a right-of-way agent license [~~certificate~~].

11 SECTION 29. Section 21.0111, Property Code, is amended by
12 adding Subsections (a-1) and (a-2) to read as follows:

13 (a-1) After an offer to which Subsection (a) applies is
14 made, the entity or the property owner shall disclose to the other
15 party any new, amended, or updated appraisal report that is
16 produced or acquired by or on behalf of the entity or property owner
17 after the offer is made and that is used in determining the entity's
18 or the property owner's opinion of value. A disclosure required by
19 this subsection must be made not later than the earlier of:

20 (1) the 10th day after the date the entity or property
21 owner receives the appraisal report; or

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

25 (a-2) A new, amended, or updated appraisal report that is
26 not disclosed as required by Subsection (a-1), and any testimony or
27 other evidence based on the report, may not be presented in a

1 hearing under Section 21.015.

2 SECTION 30. Section 21.0113(b), Property Code, is amended
3 to read as follows:

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

6 (1) an initial offer is made in writing to a property
7 owner that includes:

8 (A) a monetary offer in an amount:

9 (i) equal to or greater than 150 percent of
10 the market value of the property sought to be acquired, as
11 determined on a per acre or per square foot proportionate valuation
12 of raw land as reflected in the appraisal of the county taxing
13 authority as of the date of the initial offer; or

14 (ii) if an appraisal of the property sought
15 to be acquired and any damages to any remaining property has been
16 completed by a certified appraiser, equal to or greater than the
17 amount provided by the appraisal report;

18 (B) a statement that the entity will not contact
19 the property owner sooner than the fourth business day after the
20 date of the first personal contact made by the entity after the
21 entity sends the initial offer, except to respond to an inquiry from
22 the property owner;

23 (C) the name and telephone number of an employee
24 of the entity that the property owner may contact with questions
25 regarding the initial offer; and

26 (D) a copy of the appraisal report on which the
27 offer is based, if applicable;

1 (2) a final offer is made in writing to the property
2 owner;

3 (3) the final offer is made on or after the 30th day
4 after the date on which the entity makes a written initial offer to
5 the property owner;

6 (4) before making a final offer, the entity obtains an
7 ~~[a written]~~ appraisal report from a certified appraiser of the
8 value of the property being acquired and the damages, if any, to any
9 of the property owner's remaining property;

10 (5) the final offer is equal to or greater than the
11 amount provided by ~~[of]~~ the ~~[written]~~ appraisal report ~~[obtained by~~
12 ~~the entity]~~;

13 (6) the following items are included with the final
14 offer or have been previously provided to the owner by the entity:

15 (A) a copy of the ~~[written]~~ appraisal report;

16 (B) a copy of the deed, easement, or other
17 instrument conveying the property sought to be acquired; and

18 (C) the landowner's bill of rights statement
19 prescribed by Section [21.0112](#); and

20 (7) the entity provides the property owner with at
21 least 14 days to respond to the final offer and the property owner
22 does not agree to the terms of the final offer within that period.

23 SECTION 31. Subchapter B, Chapter [21](#), Property Code, is
24 amended by adding Sections 21.0114 and 21.0115 to read as follows:

25 Sec. 21.0114. REQUIRED TERMS FOR INSTRUMENTS OF CONVEYANCE.

26 (a) Except as provided by Subsection (b), the deed, easement, or
27 other instrument provided to a property owner under Section

1 21.0113(b)(6)(B) must include the following terms, as applicable:

2 (1) if the instrument conveys a pipeline right-of-way
3 easement:

4 (A) the maximum number of pipelines that may be
5 installed in the right-of-way;

6 (B) the maximum diameter, excluding any
7 protective coating or wrapping, of each pipeline to be installed in
8 the right-of-way;

9 (C) the type or category of each substance to be
10 transported through the pipelines to be installed in the
11 right-of-way;

12 (D) a general description of any use of the
13 surface of the right-of-way the entity intends to acquire;

14 (E) a metes and bounds or center line description
15 of the location of the easement, plat, or other legally sufficient
16 description of the location of the easement;

17 (F) the maximum width of the easement;

18 (G) the minimum depth at which the pipeline will
19 initially be installed;

20 (H) whether the double-ditch method will be used
21 for installation of the pipeline in areas that are not
22 bore-drilled;

23 (I) whether the easement is assignable in whole
24 or in part to any other entity, subsidiary, or company that does not
25 have eminent domain authority;

26 (J) whether the entity has exclusive,
27 nonexclusive, or otherwise limited rights to the right-of-way;

1 (K) a limit on access to the easement area by a
2 third party for a purpose that is not related to:

3 (i) the pipeline's construction, safety,
4 maintenance, or operation activities; or

5 (ii) other uses authorized by law;

6 (L) a right to recover actual monetary damages
7 arising from construction, maintenance, repair, replacement, or
8 future removal of the pipeline in the right-of-way, including any
9 actual monetary damages to growing crops or livestock, or a
10 statement that the offer includes such future damages;

11 (M) a provision regarding the use and repair of
12 any gates and fences;

13 (N) a provision regarding the maintenance of the
14 right-of-way;

15 (O) a provision regarding the repair and
16 restoration of areas used or damaged outside the right-of-way area
17 to their original condition or better, to the extent reasonably
18 practicable, or the payment of actual monetary damages for areas
19 not restored; and

20 (P) the manner in which the entity will access
21 the right-of-way, other than in case of emergency, in which case any
22 reasonable access may be used;

23 (2) if the instrument conveys an electrical
24 transmission right-of-way easement:

25 (A) a general description of any use of the
26 surface of the right-of-way the entity intends to acquire;

27 (B) a depiction identifying the approximate

- 1 location of the right-of-way on the property;
2 (C) a metes and bounds or center line description
3 of the location of the easement, plat, or other legally sufficient
4 description of the location of the easement;
5 (D) the maximum width of the right-of-way
6 easement;
7 (E) the manner in which the entity will access
8 the right-of-way, other than in case of an emergency, in which case
9 any reasonable access may be used;
10 (F) a limit on access to the easement area by a
11 third party for a purpose that is not related to:
12 (i) the transmission line's construction,
13 safety, maintenance, or operation activities; or
14 (ii) other uses authorized by law;
15 (G) a provision regarding the right to recover
16 actual monetary damages arising from construction, maintenance,
17 repair, replacement, or future removal of lines and support
18 facilities in the right-of-way, or a statement that the offer
19 includes such future damages;
20 (H) a provision regarding the use and repair of
21 any gates and fences;
22 (I) a provision regarding the maintenance of the
23 right-of-way;
24 (J) a provision regarding the repair and
25 restoration of areas used or damaged outside the right-of-way area
26 to their original condition or better, to the extent reasonably
27 practicable, or the payment of actual monetary damages for areas

1 not restored; and

2 (K) whether the entity has exclusive,
3 nonexclusive, or otherwise limited rights to the right-of-way;

4 (3) a prohibition against any use of the property
5 being conveyed, other than a use stated in the deed, easement, or
6 other instrument, without the express written consent of the
7 property owner;

8 (4) a statement that the landowner is protected from
9 liability under Section 21.0115, including the full text of that
10 section;

11 (5) if the entity is a nongovernmental entity that is
12 not otherwise self-insured, an agreement that the entity will keep
13 liability insurance in effect at all times during construction or,
14 if the entity is a governmental entity, a statement that the entity
15 is required by law to pay a judgment ordered by a court of competent
16 jurisdiction if the court determines that the entity is liable to
17 the property owner for personal injury and property damage
18 sustained by any person that arises from or is related to the use of
19 the property by the entity or the entity's agents or contractors;
20 and

21 (6) a statement that the terms of the deed, easement,
22 or other instrument will bind the successors and assigns of the
23 parties to the instrument.

24 (b) The entity may present and include terms in addition to
25 the terms required under Subsection (a). The property owner and the
26 entity may consider and agree to the additional terms, including
27 rights and uses that may not be the subject of a later condemnation

1 proceeding. A property owner may negotiate a deed, easement, or
2 other instrument that does not include all of the terms required
3 under Subsection (a).

4 Sec. 21.0115. LIMITATION OF PROPERTY OWNER LIABILITY. A
5 property owner is not liable to a condemning entity, the entity's
6 agents, employees, or contractors, including the contractor's
7 subcontractors of any tier, or a third party for personal injury,
8 death, or property damage:

9 (1) arising from the use by a person other than the
10 property owner of property, including for a right-of-way, acquired
11 from the property owner by condemnation; and

12 (2) not caused by the property owner's negligence or
13 intentional conduct.

14 SECTION 32. Section 21.063, Property Code, is amended by
15 adding Subsections (c) and (d) to read as follows:

16 (c) As a condition of appealing the final judgment of a
17 trial court in a condemnation proceeding, a nongovernmental
18 condemnor shall:

19 (1) deposit with the trial court the amount of the
20 final judgment, less the amount of any monetary deposit made and any
21 bonds posted by the condemnor under Sections 21.021(a)(2) and (3),
22 subject to the order of the court of appeals; or

23 (2) post a surety bond, issued by a surety company
24 authorized to engage in business in this state and conditioned to
25 secure the payment of the final judgment, in the amount of the final
26 judgment, less the amount of any monetary deposit made and any bonds
27 posted by the condemnor under Sections 21.021(a)(2) and (3).

1 (d) If the property owner moves to enforce Subsection (c)
2 and the nongovernmental condemnor fails to comply with that
3 subsection before the 30th day after the date the trial court grants
4 the motion:

5 (1) the court of appeals shall dismiss the appeal with
6 prejudice and order enforcement of the final judgment; and

7 (2) the property owner is entitled to all reasonable
8 and necessary fees for attorneys hired in relation to the appeal of
9 the condemnation.

10 SECTION 33. Section 26.11(a), Tax Code, is amended to read
11 as follows:

12 (a) If the federal government, the state, or a political
13 subdivision of the state acquires the right to possession of
14 taxable property under a court order issued in condemnation
15 proceedings, assumes possession of taxable property under a
16 possession and use agreement, or a similar agreement, that is
17 entered into under threat of condemnation, or acquires title to
18 taxable property, the amount of the tax due on the property is
19 calculated by multiplying the amount of taxes imposed on the
20 property for the entire year as determined as provided by Section
21 26.09 of this code by a fraction, the denominator of which is 365
22 and the numerator of which is the number of days that elapsed prior
23 to the date of the conveyance, the effective date of the agreement,
24 or the date of the order granting the right of possession, as
25 applicable.

26 SECTION 34. Effective March 1, 2018, Section 1101.002(2),
27 Occupations Code, is repealed.

1 SECTION 35. The office of the attorney general shall make
2 the landowner's bill of rights statement required by Section
3 [402.031](#), Government Code, as amended by this Act, available on the
4 attorney general's Internet website not later than January 1, 2018.

5 SECTION 36. Not later than September 1, 2018, the Texas Real
6 Estate Commission shall adopt rules to implement Subchapter K,
7 Chapter [1101](#), Occupations Code, as amended by this Act.

8 SECTION 37. (a) Chapter [1101](#), Occupations Code, as amended
9 by this Act, applies only to an application for an original or
10 renewal right-of-way agent license filed on or after March 1, 2018.
11 An application for an original or renewal certificate of
12 registration as an easement or right-of-way agent filed before
13 March 1, 2018, is governed by the law in effect on the date the
14 application was filed, and the former law is continued in effect for
15 that purpose.

16 (b) Sections [21.0111](#) and [21.0113](#), Property Code, as amended
17 by this Act, and Sections [21.0114](#) and [21.0115](#), Property Code, as
18 added by this Act, apply only to the acquisition of real property in
19 connection with an initial offer made under Section [21.0113](#),
20 Property Code, on or after the effective date of this Act. An
21 acquisition of real property in connection with an initial offer
22 made under Section [21.0113](#), Property Code, before the effective
23 date of this Act is governed by the law applicable to the
24 acquisition immediately before the effective date of this Act, and
25 that law is continued in effect for that purpose.

26 (c) Section [21.041](#), Property Code, as amended by this Act,
27 applies only to an eminent domain proceeding commenced on or after

1 the effective date of this Act. An eminent domain proceeding
2 commenced before the effective date of this Act is governed by the
3 law applicable to the proceeding immediately before the effective
4 date of this Act, and that law is continued in effect for that
5 purpose.

6 (d) Section 21.063, Property Code, as amended by this Act,
7 applies only to an appeal commenced on or after the effective date
8 of this Act. An appeal commenced before the effective date of this
9 Act is governed by the law applicable to the appeal immediately
10 before the effective date of this Act, and that law is continued in
11 effect for that purpose.

12 (e) Section 26.11, Tax Code, as amended by this Act, applies
13 only to an agreement entered into on or after the effective date of
14 this Act. An agreement entered into before the effective date of
15 this Act is governed by the law applicable to the agreement
16 immediately before the effective date of this Act, and that law is
17 continued in effect for that purpose.

18 SECTION 38. (a) Except as provided by Subsection (b) of
19 this section, this Act takes effect September 1, 2017.

20 (b) Chapter 1101, Occupations Code, as amended by this Act,
21 takes effect March 1, 2018.