

By: Kolkhorst

S.B. No. 742

A BILL TO BE ENTITLED

1 AN ACT

2 relating to requirements for a bona fide offer for the acquisition
3 of property by an entity with eminent domain authority.

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

5 SECTION 1. Section 21.0113, Property Code, is amended by
6 adding Subsection (c) to read as follows:

7 (c) For purposes of this section, the deed, easement, or
8 other instrument provided under Subsection (b)(6)(B) must include:

9 (1) for a pipeline right-of-way easement:

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

12 (B) the outside diameter of each pipeline to be
13 installed in the right-of-way;

14 (C) the type or category of each petroleum
15 product to be transported through the pipelines to be installed in
16 the right-of-way;

17 (D) a reasonable description of any use of the
18 surface of the right-of-way that the entity intends to acquire;

19 (E) a metes and bounds or center line description
20 of the location of the easement;

21 (F) the width of the easement;

22 (G) the depth of the pipeline and amount of
23 cover;

24 (H) a requirement to use the double-ditch method

1 for installation of the pipeline when not bore-drilled;

2 (I) a prohibition from transferring the easement
3 to any other entity, subsidiary, or company that does not have
4 eminent domain authority;

5 (J) a reservation of the property owner's right
6 to grant additional compatible easements in the easement area to
7 other parties;

8 (K) a limit on third-party access to the easement
9 area;

10 (L) a right to damages arising from construction,
11 maintenance, repair, replacement, or future removal of the pipeline
12 in the easement, including any damages to growing crops or
13 livestock;

14 (M) a covenant to lock and close all gates and
15 fences as necessary to prevent damage to or destruction of
16 livestock;

17 (N) a covenant to maintain the right-of-way; and

18 (O) a covenant to repair and restore areas used
19 or damaged outside the easement area to their original condition or
20 better;

21 (2) for an electrical transmission right-of-way
22 easement:

23 (A) the maximum number and spacing of the poles,
24 towers, or other support apparatus to carry electrical lines over
25 the easement;

26 (B) the maximum number and electrical carrying
27 capacity of the lines to be installed in the easement;

1 (C) a reasonable description of any use of the
2 surface of the right-of-way that the entity intends to acquire;

3 (D) a metes and bounds or center line description
4 of the location of the easement;

5 (E) the width of the easement;

6 (F) a reservation of the property owner's right
7 to grant additional compatible easements in the easement area to
8 other parties;

9 (G) a limit on third-party access to the easement
10 area;

11 (H) a right to damages arising from construction,
12 maintenance, repair, replacement, or future removal of lines and
13 support apparatus in the easement, including any damages to growing
14 crops or livestock;

15 (I) a covenant to lock and close all gates and
16 fences as necessary to prevent damage to or destruction of
17 livestock;

18 (J) a covenant to maintain the right-of-way; and

19 (K) a covenant to repair and restore areas used
20 or damaged outside the easement area to their original condition or
21 better;

22 (3) a prohibition against any use of the property
23 being conveyed, other than a use stated in the instrument, without
24 the express written consent of the property owner;

25 (4) a covenant that the entity will indemnify and hold
26 the property owner harmless against any claim brought against the
27 property owner arising out of or relating to the use of condemned

1 property by the entity or the entity's agents or contractors; and

2 (5) a covenant that the entity will secure and keep in
3 full force and effect at all times while the entity continues to use
4 the condemned property a policy or policies of liability insurance:

5 (A) issued by an insurer authorized to issue such
6 policies in this state;

7 (B) insuring the property owner against
8 liability for personal injuries and property damage sustained by
9 any person that arises from or is related to the use of the property
10 by the entity or the entity's agents or contractors;

11 (C) naming the property owner or the owner's
12 successor in title as an insured; and

13 (D) providing limits of liability as specified in
14 the instrument.

15 SECTION 2. Section 21.0113(c), Property Code, as added by
16 this Act, applies only to the acquisition of real property in
17 connection with an initial offer made under Section 21.0113,
18 Property Code, on or after the effective date of this Act. An
19 acquisition of real property in connection with an initial offer
20 made under Section 21.0113, Property Code, before the effective
21 date of this Act is governed by the law applicable to the
22 acquisition immediately before the effective date of this Act, and
23 that law is continued in effect for that purpose.

24 SECTION 3. This Act takes effect September 1, 2017.