

BILL ANALYSIS

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S.B. 552
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Many private landowners are unfamiliar with the full scope of their property rights and are unsure of what to do when approached about their property. Misunderstandings about rights can lead to suboptimal outcomes for landowners. To help landowners make informed decisions, current law requires the attorney general of Texas to publish a document called the Landowner's Bill of Rights. A condemning entity must present this document to a landowner by the time an entity first represents that it possesses the power of eminent domain. While the document is useful, it does not contain information concerning the ability of a person or entity to enter the land to conduct a survey.

S.B. 552 places information in the Landowner's Bill of Rights concerning existing rights and obligations of both the condemning entity and the landowner. The bill also requires survey permission forms to clearly state rights of the landowner and the eminent domain authority.

Key Provisions of S.B. 552

Includes in the Landowner's Bill of Rights (written by the attorney general):

- Condemning entity's responsibility for any actual damages arising from an examination or survey of the property;
- Property owner's right to negotiate the terms of the examination or survey of the property; and
- The condemning entity's ability to sue to obtain a court order authorizing the examination or survey.

Requires a survey permission form, if given to a landowner, to conspicuously include the same information.

As proposed, S.B. 552 amends current law relating to notice of a property owner's rights relating to the examination or survey of property by an entity with eminent domain authority.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 402.031(c), Government Code, as follows:

(c) Requires the bill of rights statement for property owners whose real property may be acquired by a governmental or private entity through the use of the entity's eminent domain authority under Chapter 21 (Eminent Domain), Property Code, to include:

(1) makes no changes to this subdivision;

(2) a description of:

(A) makes no changes to this paragraph;

(B) the condemning entity's obligation to the property owner, including the responsibility for any damages arising from an examination or survey of the property;

(C) the property owner's options during a condemnation, including the property owner's right to:

(i) refuse to grant permission to the condemning entity to enter the property and conduct an examination or survey of the property;

(ii) negotiate the terms of the examination or survey of the property;

(iii) makes a nonsubstantive change to this subparagraph; and

(D) the condemning entity's right to sue for a court order authorizing the examination or survey if the property owner refuses to grant permission for the examination or survey.

SECTION 2. Amends Subchapter B, Chapter 21, Property Code, to add Section 21.01101, as follows:

Sec. 21.01101. SURVEY PERMISSION FORM. Provides that if an entity with eminent domain authority provides a form to an owner of real property requesting the owner's permission to enter the property to examine the property or conduct a survey of the property in connection with the potential acquisition of the property for a public use, the form is required to conspicuously state that:

(1) the owner has a right to refuse to grant permission to the entity to enter the property and conduct the examination or survey;

(2) the entity has a right to sue for a court order authorizing the entity to enter the property and conduct the examination or survey if the owner refuses to grant the permission;

(3) the owner has a right to negotiate the terms of the examination or survey of the property; and

(4) the entity has the responsibility for any damages arising from an examination or survey of the property.

SECTION 3. Requires the Office of the Attorney General to make the landowner's bill of rights statement required by Section 402.031 (Preparation of Landowner's Bill of Rights Statement), Government Code, as amended by this Act, available on the Texas attorney general's Internet website not later than January 1, 2020.

SECTION 4. Effective date: January 1, 2020.