

By: Bell of Montgomery

H.B. No. 1157

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

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

(1) the petition meets the requirements of Subsection (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.

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

13 SECTION 7. This Act takes effect December 1, 2019.