

By: Thompson of Brazoria

H.B. No. 2470

A BILL TO BE ENTITLED

AN ACT

relating to an action for the damage to property value caused by the use of an easement.

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

SECTION 1. Title 4, Property Code, is amended by adding Chapter 31 to read as follows:

CHAPTER 31. DAMAGE TO PROPERTY VALUE CAUSED BY USE OF EASEMENT

SUBCHAPTER A. CAUSE OF ACTION

Sec. 31.001. ACTION FOR DAMAGE TO PROPERTY VALUE. A person who owns real property located near an easement may bring an action under this chapter to recover damages against the holder of the easement if the holder of the easement uses the easement in a manner that causes damage to the value of the real property.

Sec. 31.002. CONCURRENT JURISDICTION. District courts and county courts at law have concurrent jurisdiction for an action under this chapter.

Sec. 31.003. STANDING. Standing to bring an action under this chapter is based on the following conditions:

(1) the plaintiff was the owner of the real property when the damage to the value of the plaintiff's property occurred;

(2) the plaintiff is the current owner of the property; and

(3) the alleged damage to the property value is more than \$10,000.

1 Sec. 31.004. LIMITATIONS PERIOD. A person must bring suit
2 for damages under this chapter not later than two years after the
3 day the cause of action accrues.

4 Sec. 31.005. VENUE. The petition must be filed in the
5 county in which the property is primarily located.

6 SUBCHAPTER B. PROCEDURES

7 Sec. 31.011. CONTENTS OF PETITION. The petition for a cause
8 of action under this chapter must contain the following
9 information:

- 10 (1) the name and current address of the plaintiff;
11 (2) the address of the affected property;
12 (3) a description of the use of the easement causing
13 the alleged damage to the affected property's value;
14 (4) the date on which the damage occurred;
15 (5) the name and current address of the defendant
16 responsible for the alleged damage to the property's value; and
17 (6) the amount requested for the alleged damage to the
18 property's value.

19 Sec. 31.012. APPOINTMENT OF SPECIAL COMMISSIONERS. (a)
20 The court in which a petition is filed under this chapter shall
21 appoint three disinterested real property owners who reside in the
22 county as special commissioners to determine the amount of damage
23 to the property's value caused by the defendant's conduct.

24 (b) The court shall give preference to persons agreed on by
25 the parties. The court shall provide each party a reasonable period
26 to strike one of the three commissioners appointed by the court. If
27 a person fails to serve as a commissioner or is struck by a party to

1 the suit, the court shall appoint a replacement.

2 Sec. 31.013. POWERS AND DUTIES OF SPECIAL COMMISSIONERS.

3 (a) The special commissioners shall swear to determine the
4 recommended amount of damages to be awarded fairly, impartially,
5 and according to the law.

6 (b) The special commissioners may compel the attendance of
7 witnesses and the production of testimony, administer oaths, and
8 punish for contempt in the same manner as a county judge.

9 Sec. 31.014. HEARING. (a) The special commissioners shall
10 promptly schedule a hearing for the parties at the earliest
11 practical time but may not schedule a hearing to determine the
12 amount of damages before the 20th day after the date the special
13 commissioners were appointed.

14 (b) The special commissioners shall schedule the hearing at
15 a place that is as near as practical to the affected property or at
16 the county seat of the county in which the property is primarily
17 located.

18 (c) After notice of the hearing has been served, the special
19 commissioners shall hear the parties at the scheduled time and
20 place or at any other time or place to which the special
21 commissioners may adjourn the hearing.

22 Sec. 31.015. FINDINGS REGARDING DAMAGES. The special
23 commissioners shall file a signed and dated written statement of
24 the special commissioners' findings regarding the recommended
25 amount of damages and all other papers connected with the
26 proceeding with the court on the date the findings are made or on
27 the next working day after the date the findings are made.

1 Sec. 31.016. OBJECTIONS TO COMMISSIONERS' FINDINGS. (a) A
2 party to the proceeding may object to the findings of the special
3 commissioners by filing a written statement of the objections and
4 the grounds for the objections with the court that has jurisdiction
5 of the proceeding.

6 (b) The statement must be filed on or before the first
7 Monday after the 20th day after the date the special commissioners
8 file the findings with the court.

9 Sec. 31.017. PROPERTY VALUE DAMAGE AWARD. (a) The court
10 shall make the final determination of whether damages are awarded
11 and the amount of damages to be awarded by considering:

12 (1) the special commissioners' findings and
13 recommended award;

14 (2) any objections to the findings filed under Section
15 31.016; and

16 (3) any relevant evidence entered with the court
17 concerning the property or the use of the easement.

18 Sec. 31.018. PAYMENT OF AWARD. (a) The court shall order
19 any damages awarded to the plaintiff to be paid not later than the
20 20th day after the date the court enters a final judgment.

21 (b) On request of the defendant, the court may extend the
22 time for payment under this section by not more than 90 days if the
23 defendant proves to the court:

24 (1) an inability to pay the damages; or

25 (2) any other legitimate circumstance relevant to the
26 ability to pay the damages.

27 SECTION 2. Chapter 31, Property Code, as added by this Act,

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1 applies only to a cause of action that accrues on or after the
2 effective date of this Act.

3 SECTION 3. This Act takes effect September 1, 2019.