

By: Schwertner, et al.

S.B. No. 723

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to certain requirements in connection with the acquisition  
3 of real property for public use by an entity with eminent domain  
4 authority.

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

6 SECTION 1. Section 402.031, Government Code, is amended by  
7 amending Subsection (c) and adding Subsection (c-1) to read as  
8 follows:

9 (c) The statement must include:

10 (1) the title, "Landowner's Bill of Rights"; and

11 (2) a description of:

12 (A) the condemnation procedure provided by  
13 Chapter 21, Property Code;

14 (B) the condemning entity's obligations to the  
15 property owner, including the responsibility for any damages  
16 arising from an examination or survey of the property; ~~and~~

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

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

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

24 (iii) object to and appeal an amount of

1 damages awarded; and

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

5 (c-1) The statement must disclose that a condemning entity,  
6 other than an entity acquiring property as authorized under  
7 Subchapter D, Chapter 203, Transportation Code, that makes an  
8 initial offer under Section 21.0113, Property Code, that includes  
9 real property that the entity does not seek to acquire by  
10 condemnation shall in the initial offer:

11 (1) separately identify the real property that the  
12 entity does not seek to acquire by condemnation; and

13 (2) make an offer for the real property that the entity  
14 does not seek to acquire by condemnation separate from the offer  
15 made for the real property sought to be acquired by condemnation.

16 SECTION 2. Subchapter B, Chapter 21, Property Code, is  
17 amended by adding Section 21.01101 to read as follows:

18 Sec. 21.01101. SURVEY PERMISSION FORM. If an entity with  
19 eminent domain authority provides a form to an owner of real  
20 property requesting the owner's permission to enter the property to  
21 examine the property or conduct a survey of the property in  
22 connection with the potential acquisition of the property for a  
23 public use, the form must conspicuously state that:

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

27 (2) the entity has a right to sue for a court order

1 authorizing the entity to enter the property and conduct the  
2 examination or survey if the owner refuses to grant the permission;

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

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

7 SECTION 3. Section 21.0112(a), Property Code, is amended to  
8 read as follows:

9 (a) At the time [~~Not later than the seventh day before the~~  
10 ~~date~~] a governmental or private entity with eminent domain  
11 authority makes an initial [~~a final~~] offer to a property owner to  
12 acquire real property, the entity must send by first-class mail or  
13 otherwise provide a landowner's bill of rights statement provided  
14 by Section 402.031, Government Code, to the last known address of  
15 the person in whose name the property is listed on the most recent  
16 tax roll of any appropriate taxing unit authorized by law to levy  
17 property taxes against the property. In addition to the other  
18 requirements of this subsection, an entity with eminent domain  
19 authority shall provide a copy of the landowner's bill of rights  
20 statement to a landowner before or at the same time as the entity  
21 first represents in any manner to the landowner that the entity  
22 possesses eminent domain authority.

23 SECTION 4. Section 21.0113(b), Property Code, is amended to  
24 read as follows:

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

27 (1) an initial offer is made in writing to a property

1 owner;

2 (2) a landowner's bill of rights statement is provided  
3 to the property owner in accordance with Section 21.0112(a);

4 (3) a final offer is made in writing to the property  
5 owner;

6 (4) [~~(3)~~] the final offer is made on or after the 30th  
7 day after the date on which the entity makes a written initial offer  
8 to the property owner;

9 (5) [~~(4)~~] before making a final offer, the entity  
10 obtains a written appraisal from a certified appraiser of the value  
11 of the property being acquired and the damages, if any, to any of  
12 the property owner's remaining property;

13 (6) [~~(5)~~] the final offer is equal to or greater than  
14 the amount of the written appraisal obtained by the entity;

15 (7) [~~(6)~~] the following items are included with the  
16 final offer or have been previously provided to the owner by the  
17 entity:

18 (A) a copy of the written appraisal; and

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

21 [~~(C) the landowner's bill of rights statement~~  
22 ~~prescribed by Section 21.0112, and]~~

23 (8) [~~(7)~~] the entity provides the property owner with  
24 at least 14 days to respond to the final offer and the property  
25 owner does not agree to the terms of the final offer within that  
26 period.

27 SECTION 5. Subchapter B, Chapter 21, Property Code, is

1 amended by adding Section 21.0114 to read as follows:

2 Sec. 21.0114. OFFER TO ACQUIRE ADDITIONAL PROPERTY;  
3 EXCEPTION. (a) Except as provided by Subsection (b), a condemning  
4 entity that makes an initial offer under Section 21.0113 that  
5 includes real property that the entity does not seek to acquire by  
6 condemnation shall in the initial offer:

7 (1) separately identify the real property that the  
8 entity does not seek to acquire by condemnation; and

9 (2) make an offer for the real property that the entity  
10 does not seek to acquire by condemnation separate from the offer  
11 made for the real property sought to be acquired by condemnation.

12 (b) Subsection (a) does not apply to an acquisition of real  
13 property under Subchapter D, Chapter 203, Transportation Code.

14 SECTION 6. The office of the attorney general shall make the  
15 landowner's bill of rights statement required by Section 402.031,  
16 Government Code, as amended by this Act, available on the attorney  
17 general's Internet website not later than January 1, 2022.

18 SECTION 7. The changes in law made by this Act to Sections  
19 21.0112 and 21.0113, Property Code, apply only to the acquisition  
20 of real property in connection with an initial offer made under  
21 Section 21.0113, Property Code, on or after the effective date of  
22 this Act. The acquisition of real property in connection with an  
23 initial offer made under Section 21.0113, Property Code, before the  
24 effective date of this Act is governed by the law as it existed  
25 immediately before the effective date of this Act, and that law is  
26 continued in effect for that purpose.

27 SECTION 8. This Act takes effect January 1, 2022.