

1-1 By: Schwertner, et al. S.B. No. 723  
1-2 (In the Senate - Filed February 22, 2021; March 11, 2021,  
1-3 read first time and referred to Committee on State Affairs;  
1-4 April 14, 2021, reported favorably by the following vote: Yeas 9,  
1-5 Nays 0; April 14, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Hughes	X		
1-9	Birdwell	X		
1-10	Campbell	X		
1-11	Hall	X		
1-12	Lucio	X		
1-13	Nelson	X		
1-14	Powell	X		
1-15	Schwertner	X		
1-16	Zaffirini	X		

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to certain requirements in connection with the acquisition  
1-20 of real property for public use by an entity with eminent domain  
1-21 authority.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 402.031, Government Code, is amended by  
1-24 amending Subsection (c) and adding Subsection (c-1) to read as  
1-25 follows:

1-26 (c) The statement must include:

1-27 (1) the title, "Landowner's Bill of Rights"; and

1-28 (2) a description of:

1-29 (A) the condemnation procedure provided by  
1-30 Chapter 21, Property Code;

1-31 (B) the condemning entity's obligations to the  
1-32 property owner, including the responsibility for any damages  
1-33 arising from an examination or survey of the property; ~~and~~

1-34 (C) the property owner's options during a  
1-35 condemnation, including the property owner's right to:

1-36 (i) refuse to grant permission to the  
1-37 condemning entity to enter the property and conduct an examination  
1-38 or survey of the property;

1-39 (ii) negotiate the terms of the examination  
1-40 or survey of the property; and

1-41 (iii) object to and appeal an amount of  
1-42 damages awarded; and

1-43 (D) the condemning entity's right to sue for a  
1-44 court order authorizing the examination or survey if the property  
1-45 owner refuses to grant permission for the examination or survey.

1-46 (c-1) The statement must disclose that a condemning entity,  
1-47 other than an entity acquiring property as authorized under  
1-48 Subchapter D, Chapter 203, Transportation Code, that makes an  
1-49 initial offer under Section 21.0113, Property Code, that includes  
1-50 real property that the entity does not seek to acquire by  
1-51 condemnation shall in the initial offer:

1-52 (1) separately identify the real property that the  
1-53 entity does not seek to acquire by condemnation; and

1-54 (2) make an offer for the real property that the entity  
1-55 does not seek to acquire by condemnation separate from the offer  
1-56 made for the real property sought to be acquired by condemnation.

1-57 SECTION 2. Subchapter B, Chapter 21, Property Code, is  
1-58 amended by adding Section 21.01101 to read as follows:

1-59 Sec. 21.01101. SURVEY PERMISSION FORM. If an entity with  
1-60 eminent domain authority provides a form to an owner of real  
1-61 property requesting the owner's permission to enter the property to

2-1 examine the property or conduct a survey of the property in  
 2-2 connection with the potential acquisition of the property for a  
 2-3 public use, the form must conspicuously state that:

2-4 (1) the owner has a right to refuse to grant permission  
 2-5 to the entity to enter the property and conduct the examination or  
 2-6 survey;

2-7 (2) the entity has a right to sue for a court order  
 2-8 authorizing the entity to enter the property and conduct the  
 2-9 examination or survey if the owner refuses to grant the permission;

2-10 (3) the owner has a right to negotiate the terms of the  
 2-11 examination or survey of the property; and

2-12 (4) the entity has the responsibility for any damages  
 2-13 arising from an examination or survey of the property.

2-14 SECTION 3. Section 21.0112(a), Property Code, is amended to  
 2-15 read as follows:

2-16 (a) At the time [~~Not later than the seventh day before the~~  
 2-17 ~~date]~~ a governmental or private entity with eminent domain  
 2-18 authority makes an initial [~~a final~~] offer to a property owner to  
 2-19 acquire real property, the entity must send by first-class mail or  
 2-20 otherwise provide a landowner's bill of rights statement provided  
 2-21 by Section 402.031, Government Code, to the last known address of  
 2-22 the person in whose name the property is listed on the most recent  
 2-23 tax roll of any appropriate taxing unit authorized by law to levy  
 2-24 property taxes against the property. In addition to the other  
 2-25 requirements of this subsection, an entity with eminent domain  
 2-26 authority shall provide a copy of the landowner's bill of rights  
 2-27 statement to a landowner before or at the same time as the entity  
 2-28 first represents in any manner to the landowner that the entity  
 2-29 possesses eminent domain authority.

2-30 SECTION 4. Section 21.0113(b), Property Code, is amended to  
 2-31 read as follows:

2-32 (b) An entity with eminent domain authority has made a bona  
 2-33 fide offer if:

2-34 (1) an initial offer is made in writing to a property  
 2-35 owner;

2-36 (2) a landowner's bill of rights statement is provided  
 2-37 to the property owner in accordance with Section 21.0112(a);

2-38 (3) a final offer is made in writing to the property  
 2-39 owner;

2-40 (4) [~~(3)~~] the final offer is made on or after the 30th  
 2-41 day after the date on which the entity makes a written initial offer  
 2-42 to the property owner;

2-43 (5) [~~(4)~~] before making a final offer, the entity  
 2-44 obtains a written appraisal from a certified appraiser of the value  
 2-45 of the property being acquired and the damages, if any, to any of  
 2-46 the property owner's remaining property;

2-47 (6) [~~(5)~~] the final offer is equal to or greater than  
 2-48 the amount of the written appraisal obtained by the entity;

2-49 (7) [~~(6)~~] the following items are included with the  
 2-50 final offer or have been previously provided to the owner by the  
 2-51 entity:

2-52 (A) a copy of the written appraisal; and

2-53 (B) a copy of the deed, easement, or other  
 2-54 instrument conveying the property sought to be acquired; and

2-55 [~~(C) the landowner's bill of rights statement~~  
 2-56 ~~prescribed by Section 21.0112, and]~~

2-57 (8) [~~(7)~~] the entity provides the property owner with  
 2-58 at least 14 days to respond to the final offer and the property  
 2-59 owner does not agree to the terms of the final offer within that  
 2-60 period.

2-61 SECTION 5. Subchapter B, Chapter 21, Property Code, is  
 2-62 amended by adding Section 21.0114 to read as follows:

2-63 Sec. 21.0114. OFFER TO ACQUIRE ADDITIONAL PROPERTY;  
 2-64 EXCEPTION. (a) Except as provided by Subsection (b), a condemning  
 2-65 entity that makes an initial offer under Section 21.0113 that  
 2-66 includes real property that the entity does not seek to acquire by  
 2-67 condemnation shall in the initial offer:

2-68 (1) separately identify the real property that the  
 2-69 entity does not seek to acquire by condemnation; and

3-1 (2) make an offer for the real property that the entity  
3-2 does not seek to acquire by condemnation separate from the offer  
3-3 made for the real property sought to be acquired by condemnation.

3-4 (b) Subsection (a) does not apply to an acquisition of real  
3-5 property under Subchapter D, Chapter 203, Transportation Code.

3-6 SECTION 6. The office of the attorney general shall make the  
3-7 landowner's bill of rights statement required by Section 402.031,  
3-8 Government Code, as amended by this Act, available on the attorney  
3-9 general's Internet website not later than January 1, 2022.

3-10 SECTION 7. The changes in law made by this Act to Sections  
3-11 21.0112 and 21.0113, Property Code, apply only to the acquisition  
3-12 of real property in connection with an initial offer made under  
3-13 Section 21.0113, Property Code, on or after the effective date of  
3-14 this Act. The acquisition of real property in connection with an  
3-15 initial offer made under Section 21.0113, Property Code, before the  
3-16 effective date of this Act is governed by the law as it existed  
3-17 immediately before the effective date of this Act, and that law is  
3-18 continued in effect for that purpose.

3-19 SECTION 8. This Act takes effect January 1, 2022.

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