

By: Kolkhorst

S.B. No. 986

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the acquisition of real property by an entity with  
3 eminent domain authority.

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

5 SECTION 1. Section 402.031, Government Code, is amended by  
6 adding Subsection (e) to read as follows:

7 (e) Before making any changes to the landowner's bill of  
8 rights statement, the office of the attorney general shall:

9 (1) make the proposed statement available on the  
10 attorney general's Internet website; and

11 (2) accept public comment regarding the proposed  
12 statement for at least 90 days after the date the proposed statement  
13 is made available under Subdivision (1).

14 SECTION 2. Subchapter D, Chapter 1101, Occupations Code, is  
15 amended by adding Section 1101.162 to read as follows:

16 Sec. 1101.162. OMBUDSMAN FOR LANDOWNERS. (a) The  
17 commission shall establish an ombudsman office within the  
18 commission for the purpose of providing information to landowners  
19 whose real property may be acquired by a governmental or private  
20 entity through the use of the entity's eminent domain authority.  
21 The commission shall select the ombudsman.

22 (b) The ombudsman shall provide information to and answer  
23 questions from landowners described by Subsection (a), through the  
24 commission's Internet website and a toll-free telephone number

1 established by the ombudsman, regarding:

2 (1) the landowner's bill of rights prepared by the  
3 attorney general under Section 402.031, Government Code; and

4 (2) the procedures for acquiring real property through  
5 the use of eminent domain authority under Chapter 21, Property  
6 Code, or other law.

7 (c) The commission shall:

8 (1) provide notice by publication of the landowner's  
9 bill of rights to all counties in this state; and

10 (2) make the landowner's bill of rights available on  
11 the commission's Internet website.

12 SECTION 3. Section 1101.502(a), Occupations Code, is  
13 amended to read as follows:

14 (a) To be eligible to receive a certificate of registration  
15 or a renewal certificate under this subchapter, a person must:

16 (1) be, at the time of application:

17 (A) [~~1~~] at least 18 years of age; and

18 (B) [~~2~~] a citizen of the United States or a  
19 lawfully admitted alien; and

20 (2) successfully complete the required courses of  
21 study prescribed by this subchapter, including qualifying or  
22 continuing education requirements.

23 SECTION 4. Subchapter K, Chapter 1101, Occupations Code, is  
24 amended by adding Sections 1101.508 and 1101.509 to read as  
25 follows:

26 Sec. 1101.508. PROBATIONARY CERTIFICATE. (a) The  
27 commission may issue a probationary certificate of registration

1 under this subchapter.

2 (b) The commission by rule shall adopt reasonable  
3 requirements for the issuance of a probationary certificate.

4 Sec. 1101.509. QUALIFYING AND CONTINUING EDUCATION  
5 REQUIREMENTS. (a) The commission by rule shall approve coursework  
6 that an applicant must successfully complete to be eligible for the  
7 issuance or renewal of a certificate of registration under this  
8 subchapter.

9 (b) An applicant for the issuance or renewal of a  
10 certificate of registration shall submit evidence satisfactory to  
11 the commission that the applicant has, in the two years immediately  
12 preceding the submission of the application, completed at least 16  
13 classroom hours of coursework approved by the commission in:

14 (1) the law of eminent domain, including the rights of  
15 property owners;

16 (2) appropriate standards of professionalism in  
17 contacting and conducting negotiations with property owners; and

18 (3) ethical considerations in the performance of  
19 right-of-way acquisition services.

20 SECTION 5. Section [1101.653](#), Occupations Code, is amended  
21 to read as follows:

22 Sec. 1101.653. GROUNDS FOR SUSPENSION OR REVOCATION OF  
23 CERTIFICATE. The commission may suspend or revoke a certificate of  
24 registration issued under this chapter if the certificate holder:

25 (1) engages in dishonest dealing, fraud, unlawful  
26 discrimination, or a deceptive act;

27 (2) makes a misrepresentation;

1 (3) acts in bad faith;

2 (4) demonstrates untrustworthiness;

3 (5) fails to honor, within a reasonable time, a check  
4 issued to the commission after the commission has mailed a request  
5 for payment to the certificate holder's last known address  
6 according to the commission's records;

7 (6) fails to provide to a party to a transaction a  
8 written notice prescribed by the commission that:

9 (A) must be given before the party is obligated  
10 to sell, buy, lease, or transfer a right-of-way or easement; and

11 (B) contains:

12 (i) the name of the certificate holder;

13 (ii) the certificate number;

14 (iii) the name of the person the  
15 certificate holder represents;

16 (iv) a statement advising the party that  
17 the party may seek representation from a lawyer or broker in the  
18 transaction; and

19 (v) a statement generally advising the  
20 party that the right-of-way or easement may affect the value of the  
21 property; ~~or~~

22 (7) directly or indirectly accepts a financial  
23 incentive to make an initial offer that the certificate holder  
24 knows or should know is lower than the adequate compensation  
25 required under the Texas Constitution; or

26 (8) disregards or violates this chapter or a  
27 commission rule relating to certificate holders.

1 SECTION 6. Section [21.0113](#), Property Code, is amended by  
2 adding Subsections (c), (d), and (e) to read as follows:

3 (c) Notwithstanding Subsection (b), a private entity, as  
4 defined by Section 21.031, with eminent domain authority that wants  
5 to acquire real property for a pipeline or electric transmission  
6 project has made a bona fide offer only if the entity:

7 (1) satisfies the requirements of Subsection (b);

8 (2) includes in the initial offer:

9 (A) an offer of just compensation in an amount  
10 equal to or greater than:

11 (i) the market value of the property rights  
12 sought to be acquired, including damages to any of the property  
13 owner's remaining property, if any, and other damages, if any,  
14 based on an appraisal of the property prepared by an independent  
15 certified general appraiser licensed under Chapter [1103](#),  
16 Occupations Code; or

17 (ii) the estimated sales price of the  
18 property rights sought to be acquired based on data for at least  
19 three comparable arm's-length sales, including damages to any of  
20 the property owner's remaining property, if any, and other damages,  
21 if any, based on:

22 (a) a comparative market analysis of  
23 the property affected by the rights sought, prepared by an  
24 independent real estate broker licensed under Chapter [1101](#),  
25 Occupations Code;

26 (b) a broker price opinion of the  
27 property affected by the rights sought, prepared by an independent

1 real estate broker licensed under Chapter 1101, Occupations Code;

2 or

3 (c) a market study of the property  
4 affected by the rights sought, prepared by an independent real  
5 estate broker licensed under Chapter 1101, Occupations Code;

6 (B) the complete written report of the appraisal,  
7 the comparative market analysis, the broker price opinion, or the  
8 market study that forms the basis for the amount of the offer of  
9 compensation under Paragraph (A);

10 (C) notice of the terms described by Section  
11 21.0114(b) for which the property owner may negotiate to be  
12 included in a deed, easement, agreement, or other instrument of  
13 conveyance relating to the property;

14 (D) notice that the property owner may also  
15 receive a final offer accompanied by a written appraisal; and

16 (E) a copy of the notice of property owner  
17 information meeting required by Section 21.033, if applicable,  
18 unless the entity has previously provided a copy of the notice to  
19 the property owner;

20 (3) participates in the property owner information  
21 meeting in the manner prescribed by Section 21.037, if applicable;

22 (4) obtains for purposes of Subsection (b)(4) a  
23 written appraisal report from a certified appraiser; and

24 (5) includes in the final offer a copy of the written  
25 appraisal report required by Subsection (b)(4) unless the entity  
26 has previously provided a copy of the report to the property owner.

27 (d) For purposes of Subsection (c)(2)(A)(ii), a real estate

1 broker licensed under Chapter 1101, Occupations Code, is authorized  
2 to prepare an estimated sales price based on a comparative market  
3 analysis, a broker price opinion, or a market study.

4 (e) An offer of compensation made under Subsection (c) must  
5 include a separate statement of:

6 (1) the damages, if any, to any of the property owner's  
7 remaining property; and

8 (2) the other damages, if any.

9 SECTION 7. Section 21.047(d), Property Code, is transferred  
10 to Section 21.0113, Property Code, redesignated as Section  
11 21.0113(f), Property Code, and amended to read as follows:

12 (f) [~~(d)~~] If a court hearing a suit under this chapter  
13 determines that a condemnor did not make a bona fide offer to  
14 acquire the property from the property owner voluntarily as  
15 required by this section [~~Section 21.0113~~], the court shall abate  
16 the suit, order the condemnor to make a bona fide offer, and order  
17 the condemnor to pay:

18 (1) all costs as provided by Section 21.047(a)  
19 [~~Subsection (a)~~]; and

20 (2) any reasonable attorney's fees and other  
21 professional fees incurred by the property owner that are directly  
22 related to the violation.

23 SECTION 8. Subchapter B, Chapter 21, Property Code, is  
24 amended by adding Section 21.0114 to read as follows:

25 Sec. 21.0114. REQUIRED TERMS FOR INSTRUMENTS OF CONVEYANCE  
26 BY CERTAIN PRIVATE ENTITIES. (a) Except as provided by Subsections  
27 (c) and (d), a deed, easement, agreement, or other instrument of

1 conveyance provided to a property owner by a private entity, as  
2 defined by Section 21.031, that has the power of eminent domain to  
3 acquire the property interest to be conveyed must include the  
4 following terms, as applicable:

5           (1) if the instrument conveys a pipeline right-of-way  
6 easement:

7                   (A) the maximum number of pipelines that may be  
8 installed in the easement;

9                   (B) the maximum diameter, excluding any  
10 protective coating or wrapping, of each pipeline to be initially  
11 installed in the easement;

12                   (C) the type or category of substances permitted  
13 to be transported through each pipeline to be installed in the  
14 easement;

15                   (D) a general description of any aboveground  
16 equipment or facility the private entity intends to install,  
17 maintain, or operate on the surface of the easement;

18                   (E) any descriptions of the location of the  
19 easement, including metes and bounds or centerline descriptions,  
20 plats, and aerial or other map-based depictions of the location of  
21 the easement on the property, that are in the possession of the  
22 private entity when the private entity provides the instrument of  
23 conveyance to the property owner;

24                   (F) the maximum width of the easement;

25                   (G) the minimum depth at which each pipeline to  
26 be installed in the easement will initially be installed;

27                   (H) a provision identifying whether the private



1 entity intends to double-ditch areas of the easement that are not  
2 installed by boring or horizontal directional drilling;

3 (I) a provision limiting the private entity's  
4 right to assign the entity's interest under the deed, easement,  
5 agreement, or other instrument of conveyance without:

6 (i) written notice to the property owner at  
7 the last known address of the person in whose name the property is  
8 listed on the most recent tax roll of any taxing unit authorized to  
9 levy property taxes against the property; or

10 (ii) if the assignee, including an assignee  
11 that is an affiliate or subsidiary of or entity otherwise related to  
12 the private entity, will not operate each pipeline installed on the  
13 easement as a common carrier line or gas utility, the express  
14 written consent of the property owner, provided the property owner  
15 does not unreasonably withhold consent;

16 (J) a provision describing whether the easement  
17 rights are exclusive, nonexclusive, or otherwise limited;

18 (K) a provision limiting the private entity's  
19 right to grant a third party access to the easement area for a  
20 purpose that is not related to the construction, safety, repair,  
21 maintenance, inspection, replacement, operation, or removal of  
22 each pipeline to be installed in the easement;

23 (L) a provision regarding the property owner's  
24 right to recover actual monetary damages arising from the  
25 construction and installation of each pipeline to be installed in  
26 the easement, or a statement that the consideration for the  
27 easement includes any monetary damages arising from the

1 construction and installation of each pipeline to be installed in  
2 the easement;

3 (M) a provision regarding the property owner's  
4 right after initial construction and installation of each pipeline  
5 to be installed in the easement to actual monetary damages arising  
6 from the repair, maintenance, inspection, replacement, operation,  
7 or removal of each pipeline to be installed in the easement;

8 (N) a provision:

9 (i) regarding the removal, cutting, use,  
10 repair, and replacement of gates and fences that cross the easement  
11 or that will be used by the private entity; or

12 (ii) providing for the payment for any  
13 damage that is not restored;

14 (O) a provision:

15 (i) regarding the private entity's  
16 obligation to restore the easement area and the property owner's  
17 remaining property used by the private entity to as near to original  
18 condition as is reasonably practicable and to maintain the  
19 easement, including restoring the easement to the easement's  
20 original contours and grades; or

21 (ii) providing for the private entity to  
22 reimburse the property owner for actual monetary damages incurred  
23 by the property owner that arise from damage to the easement area  
24 and the property owner's remaining property caused by the private  
25 entity and not restored; and

26 (P) a provision describing the private entity's  
27 rights of ingress, egress, entry, and access on, to, over, and

1 across the easement; and

2 (2) if the instrument conveys an electric transmission  
3 right-of-way easement:

4 (A) a general description of any use of the  
5 surface of the easement the entity intends to acquire;

6 (B) all descriptions of the location of the  
7 easement, including metes and bounds or centerline descriptions,  
8 plats, and aerial or other map-based depictions of the location of  
9 the easement on the property, that are in the possession of the  
10 private entity when the private entity provides the instrument of  
11 conveyance to the property owner;

12 (C) the maximum width of the easement;

13 (D) the manner in which the entity will access  
14 the easement;

15 (E) a provision limiting access to the easement  
16 area by a third party that has not obtained authorization from the  
17 property owner for a purpose that is not related to the transmission  
18 line's construction, safety, repair, maintenance, inspection,  
19 replacement, operation, or removal;

20 (F) a provision regarding the property owner's  
21 right to recover actual monetary damages arising from the  
22 construction, repair, maintenance, replacement, or future removal  
23 of lines and support facilities in the easement, or a statement that  
24 the consideration for the easement includes such future damages;

25 (G) a provision:

26 (i) regarding the removal, cutting, use,  
27 repair, and replacement of gates and fences that cross the easement

1 or that will be used by the private entity; or

2 (ii) providing for the payment for any  
3 damage that is not restored;

4 (H) a provision regarding the entity's  
5 obligation to restore the easement area and the property owner's  
6 remaining property to the easement area's and the remaining  
7 property's original contours and grades and:

8 (i) a provision regarding the entity's  
9 obligation to restore the easement area and the property owner's  
10 remaining property following any future damages directly  
11 attributed to the use of the easement by the private entity; or

12 (ii) a statement that the consideration for  
13 the easement includes future damages to the easement area and the  
14 property owner's remaining property;

15 (I) a provision describing whether the easement  
16 rights are exclusive, nonexclusive, or otherwise limited; and

17 (J) a prohibition against the assignment of the  
18 entity's interest in the property to an assignee that will not  
19 operate as a utility subject to the jurisdiction of the Public  
20 Utility Commission of Texas or the Federal Energy Regulatory  
21 Commission without written notice to the property owner at the last  
22 known address of the person in whose name the property is listed on  
23 the most recent tax roll of any taxing unit authorized to levy  
24 property taxes against the property.

25 (b) The private entity shall notify the property owner that  
26 the property owner may negotiate for the following terms to be  
27 included in a deed, easement, agreement, or other instrument of

1 conveyance described by Subsection (a):

2 (1) a provision regarding the property owner's right  
3 to negotiate to recover damages, or a statement that the  
4 consideration for the easement includes damages, for:

5 (A) damage to vegetation; and

6 (B) the income loss from disruption of existing  
7 agricultural production or existing leases;

8 (2) a prohibition against any use of the property  
9 being conveyed, other than a use stated in the deed, easement,  
10 agreement, or other instrument of conveyance, without the express  
11 written consent of the property owner;

12 (3) a provision:

13 (A) requiring the private entity to maintain at  
14 all times while the private entity uses the easement, including  
15 during construction and operations on the easement, liability  
16 insurance:

17 (i) issued by an insurer authorized to  
18 issue liability insurance in this state; and

19 (ii) insuring the property owner against  
20 liability for personal injuries and property damage sustained by  
21 any person caused by the negligence of the private entity or the  
22 private entity's agents or contractors; or

23 (B) if the private entity is subject to the  
24 jurisdiction of the Public Utility Commission of Texas or has a net  
25 worth of at least \$25 million, requiring the private entity to  
26 indemnify the property owner against liability for personal  
27 injuries and property damage sustained by any person caused by the

1 negligence of the private entity or the private entity's agents or  
2 contractors; and

3 (4) a provision that the terms of the deed, easement,  
4 agreement, or other instrument of conveyance will bind the  
5 successors and assigns of the property owner and private entity.

6 (c) A private entity, as defined by Section 21.031, or the  
7 property owner may:

8 (1) negotiate for and agree to terms and conditions  
9 not required by Subsection (a) or provided by Subsection (b),  
10 including terms and conditions not included in a subsequent  
11 condemnation petition; and

12 (2) agree to a deed, easement, agreement, or other  
13 instrument of conveyance that does not include the terms required  
14 by Subsection (a).

15 (d) Except as provided by this subsection, this section does  
16 not prohibit a private entity or the property owner from agreeing to  
17 amend the terms required by Subsection (a) after the private entity  
18 makes an initial offer or final offer to the property owner as  
19 required by Section 21.0113. A private entity that changes the  
20 terms required by Subsection (a) must provide a copy of the amended  
21 deed, easement, agreement, or other instrument of conveyance to the  
22 property owner not later than the 14th day before the date the  
23 private entity files a condemnation petition relating to the  
24 property.

25 (e) A private entity that amends a deed, easement,  
26 agreement, or other instrument of conveyance to which this section  
27 applies after the initial offer or final offer is not required to

1 satisfy again any requirement of Section 21.0113 that the private  
2 entity has previously satisfied.

3 (f) A court hearing a suit under this chapter involving  
4 property the acquisition of which is subject to the requirements of  
5 this section:

6 (1) may determine whether the private entity has  
7 complied with the requirements of this section; and

8 (2) if the court determines that the private entity  
9 has not provided to a property owner a deed, easement, agreement, or  
10 other instrument of conveyance that complies with the requirements  
11 of this section, shall:

12 (A) order the private entity to:

13 (i) provide to the property owner a deed,  
14 easement, agreement, or other instrument of conveyance that  
15 complies with the requirements of this section; and

16 (ii) pay to the property owner:

17 (a) all costs related to the private  
18 entity's failure to comply with this section; and

19 (b) any reasonable attorney's fees and  
20 other professional fees incurred by the property owner that are  
21 directly related to the private entity's failure to comply with  
22 this section; and

23 (B) abate a pending proceeding until the  
24 instrument is provided.

25 SECTION 9. Section 21.014(a), Property Code, is amended to  
26 read as follows:

27 (a) The judge of a court in which a condemnation petition is

1 filed or to which an eminent domain case is assigned shall appoint  
 2 three disinterested real property owners who reside in the county  
 3 as special commissioners to assess the damages of the owner of the  
 4 property being condemned and appoint two disinterested real  
 5 property owners who reside in the county as alternate special  
 6 commissioners. The judge appointing the special commissioners  
 7 shall give preference to persons agreed on by the parties. The  
 8 judge shall provide each party a reasonable period to strike one of  
 9 the three commissioners appointed by the judge. If a person fails  
 10 to serve as a commissioner or is struck by a party to the suit in  
 11 accordance with this subsection, an alternate special commissioner  
 12 shall serve as a replacement for the special commissioner based on  
 13 the order that the alternate special commissioners are listed in  
 14 the initial order of appointment [~~the judge shall appoint a~~  
 15 ~~replacement~~].

16 SECTION 10. Section 21.016(d), Property Code, is amended to  
 17 read as follows:

18 (d) Notice may be served[+  
 19 [~~(1)~~] by delivering a copy of the notice to the party  
 20 or to the party's agent or attorney or in any other manner provided  
 21 by the Texas Rules of Civil Procedure for service of citation[+]

22 [~~(2) if the property being condemned belongs to a~~  
 23 ~~deceased's estate or to a minor or other legally disabled person and~~  
 24 ~~the person or estate has a legal representative, by delivering a~~  
 25 ~~copy of the notice to the legal representative, or~~

26 [~~(3) if the property being condemned belongs to a~~  
 27 ~~nonresident of this state and there has been no personal service on~~



1 ~~the owner, if the identity or the residence of the property owner is~~  
2 ~~unknown, or if the property owner avoids service of notice by~~  
3 ~~hiding, by publication in the same manner as service of citation by~~  
4 ~~publication in other civil cases in the district courts or county~~  
5 ~~courts at law].~~

6 SECTION 11. Chapter 21, Property Code, is amended by adding  
7 Subchapter B-1 to read as follows:

8 SUBCHAPTER B-1. ACQUISITION OF PROPERTY BY CERTAIN PRIVATE

9 ENTITIES

10 Sec. 21.031. DEFINITION. In this subchapter, "private  
11 entity":

12 (1) means:

13 (A) a for-profit entity, however organized,  
14 authorized to exercise the power of eminent domain to acquire  
15 private property for public use; and

16 (B) any affiliate or subsidiary of or entity  
17 related to an entity described by Paragraph (A), including a  
18 for-profit corporation organized under Chapter 67, Water Code, if  
19 the affiliate, subsidiary, or other entity was formed for purposes  
20 of a project for which property may be acquired through eminent  
21 domain; and

22 (2) does not include a railroad operating in this  
23 state on or before September 1, 2019.

24 Sec. 21.032. APPLICABILITY OF SUBCHAPTER. (a) Except as  
25 expressly provided by Section 21.033(d), this subchapter applies  
26 only to a private entity that seeks to acquire for the same pipeline  
27 or electric transmission project 25 or more tracts of real

1 property, including easements within those tracts, that are owned  
2 by at least 25 separate and unaffiliated property owners.

3 (b) Except as expressly provided by Section 21.0392, this  
4 subchapter does not apply to a private entity that:

5 (1) operates or proposes to construct an electric  
6 transmission line; and

7 (2) is subject to the jurisdiction of the Public  
8 Utility Commission of Texas under Chapter 37, Utilities Code.

9 (c) This subchapter does not apply to the acquisition of a  
10 tract of real property that is an industrial property, including a  
11 tract that contains a refinery, processing facility, underground  
12 storage facility, electric station, industrial facility, power  
13 plant facility, or storage terminal.

14 Sec. 21.033. NOTICE OF PROPERTY OWNER INFORMATION MEETING.

15 (a) A private entity shall, before or at the same time that the  
16 entity makes an initial offer as required under Section 21.0113,  
17 provide a written notice advising the property owner of:

18 (1) the property owner's right to participate in a  
19 meeting to discuss the proposed project, including:

20 (A) if the project is a pipeline, the substances,  
21 products, materials, installations, and structures the private  
22 entity intends to transport through, use for, or build as part of  
23 the project; and

24 (B) any regulatory filings for the project; and

25 (2) the date, time, and location of the meeting.

26 (b) The private entity shall send the meeting notice to:

27 (1) the property owner listed for the property on the

1 most recent tax roll for a taxing unit with authority to levy an ad  
2 valorem tax on the property; or

3 (2) the address for the property listed on the tax roll  
4 described by Subdivision (1).

5 (c) The private entity shall also send the meeting notice  
6 to:

7 (1) any other address that the private entity has for  
8 the property owner; and

9 (2) each county judge of a county in which all or part  
10 of the project section or segment for which the meeting is to be  
11 held is located.

12 (d) If a pipeline involves fewer than 25 separate and  
13 unaffiliated property owners, the private entity shall provide  
14 notice to the property owners in the manner prescribed by this  
15 section that a property owner may request a meeting with the private  
16 entity to receive the information required to be presented by a  
17 private entity under Section 21.037. If a property owner requests a  
18 meeting, the private entity shall hold the meeting not later than  
19 the 30th day after the date the private entity sent the notice to  
20 the property owner.

21 Sec. 21.034. PROPERTY OWNER INFORMATION MEETING. (a) For  
22 each contiguous linear section of a proposed project route that is  
23 equal to or less than 100 miles in length, the private entity shall  
24 hold a group property owner meeting. For a project that exceeds 100  
25 miles in length, the private entity shall hold at least one separate  
26 meeting for each 100-mile segment.

27 (b) The private entity shall hold a meeting required under

1 Subsection (a) in a centrally located public location:

2 (1) appropriate to the size and nature of the meeting;

3 and

4 (2) as convenient as possible to the majority of  
5 property owners affected by the project or project segment for  
6 which the meeting is required.

7 (c) The private entity shall hold the meeting in a location  
8 the travel distance to which is 50 miles or less for the majority of  
9 property owners who reside on property being acquired for the  
10 project section or segment for which the meeting is to be held.

11 (d) A meeting required under Subsection (a) may not be  
12 scheduled to begin earlier than 5:30 p.m.

13 (e) A meeting required under Subsection (a) may not be held  
14 before the private entity sends at least 25 percent of the initial  
15 offers required by Section [21.0113](#).

16 Sec. 21.035. PERSONS AUTHORIZED TO ATTEND PROPERTY OWNER  
17 INFORMATION MEETING. (a) In addition to the property owner and the  
18 private entity representatives, the following individuals may  
19 attend a meeting held under Section 21.034:

20 (1) an invited relative of the property owner who is  
21 related to the property owner within the third degree by  
22 consanguinity or affinity, as determined under Chapter [573](#),  
23 Government Code;

24 (2) an attorney or licensed appraiser representing the  
25 property owner;

26 (3) an employee or a lessee of the property owner that  
27 has direct knowledge of the property;

1           (4) an employee of an entity with whom the property  
2 owner has contracted for services to manage the property; or

3           (5) a county judge of a county in which all or part of  
4 the project section or segment for which the meeting is held is  
5 located.

6           (b) A private entity may include in the notice required by  
7 Section 21.033 a requirement that the property owner identify  
8 persons described by Subsections (a)(1)-(4) who intend to attend  
9 the meeting not later than two days before the date of the meeting.

10          (c) The number of attendees under Subsections (a)(1)-(4)  
11 may not exceed five individuals for each separate tract of  
12 property.

13          (d) The private entity may require attendees to provide  
14 identification and complete a registration form that includes  
15 contact information.

16          (e) The private entity may take reasonable steps to maintain  
17 safety and decorum at the meeting, including expelling attendees  
18 who do not meet the requirements of this subchapter.

19          (f) The private entity may not deny entry to a property  
20 owner who provides proper identification.

21          Sec. 21.036. PARTICIPATION BY PRIVATE ENTITY REQUIRED. One  
22 or more representatives designated by the private entity shall:

23                 (1) attend each meeting required by Section 21.034;  
24 and

25                 (2) participate in those meetings in the manner  
26 prescribed by Section 21.037.

27          Sec. 21.037. PROPERTY OWNER INFORMATION MEETING AGENDA.

1 (a) At a meeting held under Section 21.034:  
2 (1) the private entity shall present:  
3 (A) the information contained in the landowner's  
4 bill of rights statement required to be provided to a property owner  
5 under Section 21.0112;  
6 (B) a description of the public use for which the  
7 entity wants to acquire the real property;  
8 (C) the terms required under Section 21.0114 to  
9 be included in a deed, easement, agreement, or other instrument of  
10 conveyance provided by the entity to the property owner;  
11 (D) a description of the method and factors used  
12 by the entity to determine the entity's initial offer, including:  
13 (i) how damages to remaining property, if  
14 any, were evaluated; or  
15 (ii) the name of the person who prepared the  
16 appraisal report, comparative market analysis, broker price  
17 opinion, or market study required under Section 21.0113(c);  
18 (E) a description of the private entity's  
19 regulatory filings related to the project;  
20 (F) the basis for the private entity's exercise  
21 of eminent domain authority for the project; and  
22 (G) the name and contact information, as known at  
23 the time of the meeting, of any third-party contractor to be used by  
24 the entity to acquire the land or undertake the project; and  
25 (2) any person who is an authorized attendee of the  
26 meeting must be given an opportunity at the meeting to ask questions  
27 and make comments regarding:

1           (A) the rights of the property owners;

2           (B) the proposed public use for which the real  
3 property is to be acquired; and

4           (C) any terms required under Section 21.0114 to  
5 be included in a deed, easement, agreement, or other instrument of  
6 conveyance provided by the private entity to a property owner.

7           (b) On request, a private entity shall provide, in written  
8 or electronic form, the materials presented by the private entity  
9 at the meeting to a property owner who could not attend the meeting.

10           Sec. 21.038. CONTACT AFTER PROPERTY OWNER INFORMATION  
11 MEETING. A private entity that holds a meeting under Section 21.034  
12 may not contact a property owner for three days following the date  
13 of the meeting. Nothing in this section precludes:

14           (1) a property owner or an individual allowed to  
15 attend a meeting held under Section 21.034 from contacting the  
16 private entity at any time; or

17           (2) the private entity from engaging in discussions  
18 with a person described by Subdivision (1) after that person  
19 contacts the entity.

20           Sec. 21.039. PROCEDURES AFTER PROJECT RE-ROUTE. If any  
21 part of the project is re-routed after any meeting is held under  
22 Section 21.034, the private entity shall, with respect to that  
23 re-route only, comply with the provisions of this subchapter with  
24 respect to tracts along the re-route.

25           Sec. 21.0391. PRIVATE ENTITY NONCOMPLIANCE. (a) A private  
26 entity subject to this subchapter may not proceed with a special  
27 commissioners' hearing against a property owner unless the private

1 entity has held a meeting required under this subchapter.

2 (b) If a court hearing a suit under this chapter determines  
3 that a private entity did not comply with the applicable provisions  
4 of this subchapter, the court shall:

5 (1) abate any condemnation proceeding filed by the  
6 private entity until the private entity has complied with this  
7 subchapter;

8 (2) order the private entity to comply with the  
9 applicable provisions of this subchapter; and

10 (3) order the private entity to pay:

11 (A) all costs of the proceeding; and

12 (B) any reasonable attorney's fees and other  
13 professional fees incurred by the property owner that are directly  
14 related to the entity's failure to comply with the applicable  
15 provisions of this subchapter.

16 (c) A condemnation proceeding that is abated under this  
17 section may proceed after a court finds that the private entity has  
18 complied with the applicable provisions of this subchapter.

19 Sec. 21.0392. PROCEDURES FOR CERTAIN PRIVATE ENTITIES  
20 SUBJECT TO JURISDICTION OF PUBLIC UTILITY COMMISSION. (a) This  
21 section applies only to a private entity that proposes to exercise  
22 the power of eminent domain to construct an electric transmission  
23 line and is subject to the authority of the Public Utility  
24 Commission of Texas under Chapter 37, Utilities Code.

25 (b) A private entity to which this section applies and that  
26 is required by the Public Utility Commission of Texas to conduct a  
27 public meeting in connection with the electric transmission line



1 project shall present at the meeting:

2 (1) the information contained in the landowner's bill  
3 of rights required to be provided to a property owner under Section  
4 21.0112;

5 (2) the terms required under Section 21.0114 to be  
6 included in a deed, easement, agreement, or other instrument of  
7 conveyance provided by the entity to the property owner;

8 (3) the name and contact information of any  
9 third-party contractor or right-of-way agent that will contact a  
10 property owner or seek access to the property owner's property in  
11 connection with the project, to the extent available;

12 (4) the name and contact information, including direct  
13 telephone number and e-mail address, for an agent or employee of the  
14 entity with authority to answer questions about the electric  
15 transmission line project;

16 (5) the method for calculating the value of the  
17 property being acquired by the entity and the damages, if any, to  
18 the property owner's remaining property, as part of the entity's  
19 initial offer to a property owner; and

20 (6) a detailed summary of procedures for right-of-way  
21 acquisition after the route for the electric transmission line has  
22 been selected.

23 (c) The private entity must give property owners the  
24 opportunity to ask the entity questions regarding eminent domain  
25 and right-of-way acquisition at the meeting.

26 (d) After the Public Utility Commission of Texas adopts a  
27 route for the electric transmission line, the entity shall provide

1 by letter to each property owner on the route:

2 (1) a copy of the entity's draft easement form  
3 containing a statement of the terms required by Section 21.0114 to  
4 be included in a deed, easement, agreement, or other instrument of  
5 conveyance provided by the entity to the property owner;

6 (2) an explanation of the initial offer process and  
7 the basis for calculating the value of the property being acquired  
8 by the entity and the damages, if any, to the property owner's  
9 remaining property as part of the initial offer required by Section  
10 21.0113;

11 (3) a statement of the property owner's right under  
12 Section 21.0113 to receive a copy of the written appraisal with the  
13 final offer, if a copy of the written appraisal has not previously  
14 been provided to the property owner by the entity;

15 (4) an explanation of the negotiation process,  
16 including the name and contact information of any right-of-way  
17 agent who will be participating in the process; and

18 (5) the name and contact information, including the  
19 direct telephone number and e-mail address, for an agent or  
20 employee of the entity with authority to answer questions about the  
21 electric transmission line project.

22 (e) On request, a private entity shall provide, in written  
23 or electronic form, the materials presented by the private entity  
24 at the meeting to a property owner who could not attend the meeting.

25 SECTION 12. Section 21.042, Property Code, is amended by  
26 adding Subsection (d-1) to read as follows:

27 (d-1) In estimating injury or benefit under Subsection (c)

1 in a condemnation proceeding relating to the acquisition of real  
2 property by a private entity as defined by Section 21.031 for a  
3 pipeline or electric transmission project, the special  
4 commissioners shall consider, in addition to the considerations  
5 required under Subsection (d), an injury or benefit to the  
6 remaining property as a result of:

7           (1) the characteristics, size, or visibility of any  
8 infrastructure on the condemned property;

9           (2) any limitation of future expansion of the  
10 remaining property; and

11           (3) terms of the easement acquired in connection with,  
12 or the alignment of an easement in connection with, the  
13 condemnation.

14           SECTION 13. Not later than December 1, 2021, the Texas Real  
15 Estate Commission shall:

16           (1) establish an ombudsman office for landowners as  
17 required by Section 1101.162, Occupations Code, as added by this  
18 Act; and

19           (2) adopt rules necessary to implement the changes in  
20 law made by this Act to Chapter 1101, Occupations Code.

21           SECTION 14. Notwithstanding Section 1101.502(a),  
22 Occupations Code, as amended by this Act, and Section 1101.509,  
23 Occupations Code, as added by this Act, a person who has submitted  
24 an application for the issuance or renewal of a certificate of  
25 registration as an easement or right-of-way agent on or before  
26 January 1, 2022, is not subject to the education requirements of  
27 those provisions until the first renewal of the certificate after

1 January 1, 2024.

2           SECTION 15. (a) Except as provided by Subsection (b) of  
3 this section, the changes in law made by this Act to Chapter 21,  
4 Property Code, apply only to the acquisition of real property in  
5 connection with an initial offer made under Chapter 21, Property  
6 Code, on or after the effective date of this Act. An acquisition of  
7 real property in connection with an initial offer made under  
8 Chapter 21, Property Code, before the effective date of this Act is  
9 governed by the law applicable to the acquisition immediately  
10 before the effective date of this Act, and that law is continued in  
11 effect for that purpose.

12           (b) Section 21.0392, Property Code, as added by this Act,  
13 applies only to a public meeting required under Chapter 37,  
14 Utilities Code, held on or after the effective date of this Act.

15           SECTION 16. This Act takes effect September 1, 2021.