

By: Schwertner

S.B. No. 1513

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Section 402.031, Government Code, is amended by amending Subsection (c) and adding Subsection (c-2) to read as follows:

(c) The statement must include:

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

(2) a description of:

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

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

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

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

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

(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-2) 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 that includes:

2 (A) a copy of the landowner's bill of rights
3 statement prescribed by Section 402.031, Government Code, provided
4 in accordance with Section 21.0112 and including the addendum
5 prescribed by Section 402.031(c-1), Government Code, if
6 applicable;

7 (B) a statement, in bold print and a larger font
8 than the other portions of the offer, indicating whether the
9 compensation being offered includes:

10 (i) damages to the remainder, if any, of the
11 property owner's remaining property; or

12 (ii) an appraisal of the property,
13 including damages to the remainder, if any, prepared by a certified
14 appraiser certified to practice as a certified general appraiser
15 under Chapter 1103, Occupations Code;

16 (C) an instrument of conveyance, provided that if
17 the entity is a private entity as defined by Section 21.0114(a), the
18 instrument must comply with Section 21.0114, as applicable, unless:

19 (i) the entity has previously provided an
20 instrument complying with Section 21.0114;

21 (ii) the property owner desires to use an
22 instrument different than one complying with Section 21.0114 and
23 consents in writing to use a different instrument; or

24 (iii) the property owner provided the
25 entity with the instrument prior to the issuance of the initial
26 offer; and

27 (D) the name and telephone number of a

representative of the entity who is:

(i) an employee of the entity;

(ii) an employee of an affiliate providing services on behalf of the entity;

(iii) a legal representative of the entity;

or

(iv) if the entity does not have employees, an individual designated to represent the day-to-day operations of the entity;

(2) a final offer is made in writing to the property owner;

(3) the final offer is made on or after the 30th day after the date on which the entity makes a written initial offer to the property owner;

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

(5) the final offer is equal to or greater than the amount of the written appraisal obtained by the entity;

(6) the following items are included with the final offer or have been previously provided to the owner by the entity:

(A) a copy of the written appraisal; and

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

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

1 (7) the entity provides the property owner with at
2 least 14 days to respond to the final offer and the property owner
3 does not agree to the terms of the final offer within that period.

4 SECTION 5. Subchapter B, Chapter 21, Property Code, is
5 amended by adding Section 21.0115 to read as follows:

6 Sec. 21.0115. OFFER TO ACQUIRE ADDITIONAL PROPERTY;
7 EXCEPTION. (a) Except as provided by Subsection (b), a condemning
8 entity that makes an initial offer under Section 21.0113 that
9 includes 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 (b) Subsection (a) does not apply to an acquisition of real
17 property under Subchapter D, Chapter 203, Transportation Code.

18 SECTION 6. The office of the attorney general shall make the
19 landowner's bill of rights statement required by Section 402.031,
20 Government Code, as amended by this Act, available on the attorney
21 general's Internet website not later than January 1, 2024.

22 SECTION 7. The changes in law made by this Act to Sections
23 21.0112 and 21.0113, Property Code, apply only to the acquisition
24 of real property in connection with an initial offer made under
25 Section 21.0113, Property Code, on or after the effective date of
26 this Act. The acquisition of real property in connection with an
27 initial offer made under Section 21.0113, Property Code, before the

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1 effective date of this Act is governed by the law as it existed
2 immediately before the effective date of this Act, and that law is
3 continued in effect for that purpose.

4 SECTION 8. This Act takes effect January 1, 2024.