

1 State of Arkansas As Engrossed: H2/13/13 H2/22/13

2 89th General Assembly

A Bill

3 Regular Session, 2013

HOUSE BILL 1192

4

5 By: Representative Hammer

6

7

For An Act To Be Entitled

8

AN ACT TO LIMIT THE POWER OF EMINENT DOMAIN FOR

9

PROPERTY OWNERS' IMPROVEMENT DISTRICTS; TO DECLARE AN

10

EMERGENCY; AND FOR OTHER PURPOSES.

11

12

13

Subtitle

14

TO LIMIT THE POWER OF EMINENT DOMAIN FOR

15

PROPERTY OWNERS' IMPROVEMENT DISTRICTS

16

AND TO DECLARE AN EMERGENCY.

17

18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20

21 *SECTION 1. DO NOT CODIFY. This act shall be known and may be cited as*
22 *Seth's Law.*

23

24 SECTION 2. Arkansas Code § 14-93-113 is amended to read as follows:

25 14-93-113. Right and power of eminent domain.

26 *(a)(1)(A) All districts organized under this chapter shall have the*
27 *right of eminent domain in order that they may carry out the purposes of*
28 *their creation.*

29 *(B) A district under this chapter shall not have the right*
30 *of eminent domain to condemn rights-of-way outside the boundaries of the*
31 *district.*

32 *(2) This right shall be exercised in the same manner as in the*
33 *case of railroad, telegraph, and telephone companies, but without the*
34 *necessity of making a deposit of money before entering into possession of the*
35 *property condemned.*

36 *(b)(1) ~~Any~~ A district shall have the power of eminent domain for the*



1 *purposes of:*

2 (A) *Condemning any water or sewer utility other than a*
3 *water or sewer utility owned by a municipality or other type of improvement*
4 *district, including without limitation a municipal improvement district or*
5 *consolidated utility district, that is found within the boundaries of the*
6 *district ~~which is~~ and is exempt from the definition of "public utility" ~~as~~*
7 *~~found in~~ defined under § 23-1-101(4); 23-1-101(9);*

8 (B) *Securing any lands or rights-of-way needed in making*
9 *improvements to water or sewer systems owned and operated by that district.*

10 ~~(2)(A)(c)(1)(A)~~ *The board of the district ~~shall have the power to~~*
11 *may enter upon any private property for the purposes stated in *subdivision**
12 **(b)(1) of this section.**

13 (B) *If the person is damaged and the board of the district*
14 *cannot agree on the sum to be paid for the damages, the person aggrieved may*
15 *file his or her other petition in the circuit court of the county setting*
16 *forth his or her other grievance and asking compensation ~~therefor~~ for the*
17 *grievance, making the board of the district a party defendant.*

18 (C) *The issues in the suit shall be made up as in other*
19 *cases at law, and the cause shall be tried by a jury, unless dispensed with*
20 *by the parties.*

21 (D) *The case shall be advanced on the docket so as to have*
22 *precedence over all other causes.*

23 (E)(i) *The judge of the circuit court may hold a special*
24 *term at any time for the trial of the cause, giving ten (10) days' notice to*
25 *the parties of the time of holding the special term.*

26 (ii) *This notice may be in writing and shall be*
27 *served on the parties as a writ of summons is directed to be served unless*
28 *the notice is waived by the parties, or one (1) of ~~them~~ the parties.*

29 ~~(B)(2)(A)~~ *In case an agreement cannot be arrived at*
30 *between the board of improvement and the owner of the property in relation to*
31 *the damages claimed, the judge of the court, in vacation, may fix an amount*
32 *to be deposited with some person, to be designated by the court, before the*
33 *entering upon and taking possession of the property to be used and taken as*
34 *provided in this section.*

35 ~~(B)~~ *~~Upon the amount required being deposited and~~*
36 *~~certificate thereof filed in the cause~~ When the required amount has been*

1 deposited and the certificate filed in the cause, the work may proceed.

2
3 *SECTION 3. DO NOT CODIFY. Legislative intent.*

4 *(a) The purpose of this act is to limit the power of eminent domain*
5 *only for property owners' improvement districts.*

6 *(b) This act does not apply to other types of improvement districts,*
7 *including without limitation municipal improvement districts or consolidated*
8 *utility districts.*

9 *(c) This act does not limit the power of eminent domain available*
10 *under applicable law to other types of improvement districts.*

11
12 *SECTION 4. EMERGENCY CLAUSE. It is found and determined by the*
13 *General Assembly of the State of Arkansas that certain individuals have used*
14 *the current law to meet their own ends by abusing the power of eminent*
15 *domain; that because of that abuse, property value has declined in certain*
16 *areas; and that this act is immediately necessary because this type of abuse*
17 *needs to be rectified as soon as possible. Therefore, an emergency is*
18 *declared to exist, and this act being immediately necessary for the*
19 *preservation of the public peace, health, and safety shall become effective*
20 *on:*

21 *(1) The date of its approval by the Governor;*

22 *(2) If the bill is neither approved nor vetoed by the Governor,*
23 *the expiration of the period of time during which the Governor may veto the*
24 *bill; or*

25 *(3) If the bill is vetoed by the Governor and the veto is*
26 *overridden, the date the last house overrides the veto.*

27
28
29 /s/Hammer

30
31
32 **APPROVED: 03/06/2013**