

1 State of Arkansas *As Engrossed: H2/19/13 H3/8/13*

2 89th General Assembly

# A Bill

3 Regular Session, 2013

HOUSE BILL 1282

4

5 By: Representatives J. Edwards, Steel, Wright

6 By: Senator J. Hutchinson

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## For An Act To Be Entitled

9 AN ACT TO MODIFY CERTAIN EMINENT DOMAIN LAWS THAT  
10 ARISE OUT OF PROPERTY RIGHTS SECURED UNDER ARTICLE 2,  
11 § 22 OF THE ARKANSAS CONSTITUTION; AND FOR OTHER  
12 PURPOSES.

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## Subtitle

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TO MODIFY CERTAIN EMINENT DOMAIN LAWS

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THAT ARISE OUT OF PROPERTY RIGHTS SECURED

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UNDER ARTICLE 2, § 22 OF THE ARKANSAS

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CONSTITUTION.

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

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24 SECTION 1. DO NOT CODIFY. Legislative intent.

25 (a) It is the intent of the General Assembly to protect the property  
26 rights of the people of the State of Arkansas in eminent domain proceedings  
27 initiated by the State Highway Commission because, as stated in Article 2, §  
28 22 of the Arkansas Constitution, the right of property in Arkansas is before  
29 and higher than any constitutional sanction and should not be taken without  
30 just compensation.

31 (b) The General Assembly believes when the Arkansas State Highway and  
32 Transportation Department fails to offer the fair market value for condemned  
33 property that costs, expenses, and reasonable attorney's fees should be  
34 awarded to the land owner to justly compensate the people of the State of  
35 Arkansas.

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1 SECTION 2. Arkansas Code § 27-67-317 is amended to read as follows:  
2 27-67-317. Payment of award.

3 (a) Upon the application of any party in interest and upon due notice  
4 to all parties, the court may order that the money deposited in the court, or  
5 any part thereof, be paid immediately to the person or persons entitled  
6 thereto.

7 (b) If the compensation finally awarded ~~shall exceed~~ exceeds the  
8 *amount of money ~~so~~ deposited by ten percent (10%) or more, the court shall*  
9 *enter judgment against the State of Arkansas and in favor of the ~~parties~~*  
10 *party entitled thereto for the amount of the deficiency and shall award the*  
11 *party entitled to judgment their costs, expenses, and reasonable attorney's*  
12 *fees incurred in preparing and conducting the final hearing and adjudication,*  
13 *including without limitation the cost of appraisals and fees for experts.*

14 (c) *If the compensation finally awarded ~~shall be~~ is less than the*  
15 *amount of money ~~so~~ deposited and paid to the persons entitled thereto, the*  
16 *court shall enter judgment in favor of the State of Arkansas and against the*  
17 *proper parties for the amount of the excess.*

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20 /s/J. Edwards

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23 **APPROVED: 03/26/2013**  
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