

1 State of Arkansas *As Engrossed: H3/23/15 S3/26/15*

2 90th General Assembly

A Bill

3 Regular Session, 2015

HOUSE BILL 1908

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5 By: Representatives Beck, C. Douglas, *Drown*

6 *By: Senator J. Hutchinson*

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For An Act To Be Entitled

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AN ACT TO ESTABLISH A BILL OF RIGHTS FOR A PROPERTY
OWNER; AND FOR OTHER PURPOSES.

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Subtitle

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TO ESTABLISH A BILL OF RIGHTS FOR A
PROPERTY OWNER.

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

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20 SECTION 1. Arkansas Code Title 18, Chapter 15, Subchapter 1, is
21 amended to add an additional section to read as follows:

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18-15-103. Bill of rights — Property owner.

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(a) The principles expressed in subsection (b) of this section shall
serve as standards to be followed in any proceeding that involves an entity
authorized by law to exercise the power of eminent domain.

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(b) An owner of property subject to a proceeding to condemn private
property under the right of eminent domain shall have the following bill of
rights:

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(1) A property owner is entitled to receive just compensation
when private property is taken for a public use;

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(2) Private property may only be taken for public use;

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(3) Private property may only be taken by a governmental entity
or a private entity authorized by law to exercise the power of eminent
domain;

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(4) A property owner has the right to receive reasonable
notification of an entity's interest in taking the property owner's private

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1 property;

2 (5)(A) A property owner shall receive from the government or
3 private entity an assessment of the just compensation the entity estimates
4 for the property owner's private property before or contemporaneously with a
5 good faith offer of just compensation.

6 (B) However, when a property owner cannot be located and
7 must be served by warning order, a filing of the assessment with the
8 complaint for condemnation shall be sufficient compliance with subdivision
9 (b)(5)(A) of this section;

10 (6) An entity shall make a good faith offer to buy the property
11 owner's private property before initiating a condemnation proceeding;

12 (7) A property owner has the right to hire an appraiser or other
13 independent professional to determine the value of the private property or to
14 assist the property owner in a condemnation proceeding;

15 (8) A property owner has the right to hire an attorney to
16 represent the property owner in a condemnation proceeding and negotiate on
17 behalf of the property owner with the entity;

18 (9) In a proceeding to condemn private property under the right
19 of eminent domain, the circuit court shall impanel a jury of twelve (12)
20 persons as in civil cases to determine the just compensation the government
21 or private entity owes the property owner;

22 (10) Any party has the right to appeal a decision entered by the
23 circuit court under subdivision (b)(9) of this section; and

24 (11)(A) Except as provided in subdivision (b)(11)(B) of this
25 section, in a condemnation brought under the laws of this state, a property
26 owner shall be entitled to an award of the property owner's costs, expenses,
27 and reasonable attorney's fees incurred in preparing and conducting the final
28 hearing and adjudication, including without limitation the cost of appraisals
29 and fees for experts, if the compensation ultimately awarded exceeds the
30 condemning entity's initial assessment of the just compensation owed by
31 twenty percent (20%) or more.

32 (B) An award of costs, expenses, and attorney's fees in a
33 condemnation action brought by a county or municipality is governed by the
34 laws that authorize the condemnation action.

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36 SECTION 2. Arkansas Code § 27-67-317(b), concerning compensation for

1 *taking private property, is amended to read as follows:*

2 *(b) If the compensation finally awarded exceeds the amount of money*
3 *deposited by ~~ten percent (10%)~~ twenty percent (20%) or more, the court shall*
4 *enter judgment against the State of Arkansas and in favor of the party*
5 *entitled thereto for the amount of the deficiency and shall award the party*
6 *entitled to judgment its costs, expenses, and reasonable attorney's fees*
7 *incurred in preparing and conducting the final hearing and adjudication,*
8 *including without limitation the cost of appraisals and fees for experts.*

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/s/Beck

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APPROVED: 04/06/2015

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