

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

As Engrossed: H2/13/13 H2/22/13

# A Bill

HOUSE BILL 1192

5 By: Representative Hammer  
6

## 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.*

### Subtitle

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14 *TO LIMIT THE POWER OF EMINENT DOMAIN FOR*  
15 *PROPERTY OWNERS' IMPROVEMENT DISTRICTS*  
16 *AND TO DECLARE AN EMERGENCY.*

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 *SECTION 1. DO NOT CODIFY. This act shall be known and may be cited as*  
22 *Seth's Law.*

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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.

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.*

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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.*

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29 /s/Hammer