

ARKANSAS SENATE
87th General Assembly - Regular Session, 2009
Amendment Form

Subtitle of Senate Bill No. 399

"TO UPDATE THE PROCEDURE FOR ACQUIRING AN ACCESS EASEMENT."

Amendment No. 3 to Senate Bill No. 399.

Amend Senate Bill No. 399 as engrossed, S3/9/09 (version: 03-09-2009 08:17):

Page 1, line 22, delete "(a) When" and substitute "(a)(1) When"

AND

Page 1, delete line 36 and substitute the following:

~~"survey of the private road.~~

(2) The written notice shall include the amount of payment the owner offers for the road."

AND

Page 3, line 25, delete "(d)(1) The" and substitute "(d)(1)(A) The"

AND

Page 3, line 26, delete "their opinions as to the necessity and"

AND

Page 3, delete lines 31 and 32, and substitute the following:

~~"the land of each owner~~ each owner's land sought to be appropriated.

(B) The parties shall stipulate to or dispute the report of the viewers.

(2) The measure of damages shall be the difference in the fair"

AND

Page 5, line 6, delete "(b) The" and substitute "(b)(1) The"

AND

Page 5, delete lines 12 and 13, and substitute the following:

"and damages sustained by each owner of the lands over which the road passes.



(2)(A) If the respondent substantially prevails on the disputed issues in the case, the court shall award reasonable attorney's fees and costs to the respondent.

(B) In determining whether the respondent substantially prevails on the disputed issues, the court shall consider the respondent's success on the merits regarding the:

- (i) Necessity of the road;
- (ii) Route of the road;
- (iii) Width of the road; and
- (iv) Damages to the lands

over which the road passes.

(c) The order shall state that:

(1) The respondent retains title to the lands over which the road passes; and

(2) The road is for an access easement only and is not an easement for any other purpose, including a public utility.

(iii) The petitioner shall be solely responsible for"

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Wyatt

KLL/YTC - 03-16-2009 15:30

KLL255

Secretary