

Hall of the House of Representatives

91st General Assembly - Regular Session, 2017

Amendment Form

Subtitle of House Bill No. 1444

TO REVISE CERTAIN EMINENT DOMAIN LAWS THAT ARISE OUT OF PROPERTY RIGHTS SECURED
UNDER THE ARKANSAS CONSTITUTION, ARTICLE 2, § 22.

Amendment No. 1 to House Bill No. 1444

Amend House Bill No. 1444 as originally introduced:

Page 27, delete line 25 through 28, and substitute the following:

"(c)(1) Proceedings instituted under this section, other than those brought against the state, its agencies, and other instrumentalities of the state, shall be governed by the rules of pleading and practice prescribed for the government of proceedings in the Arkansas Rules of Civil Procedure and brought in a circuit court authorized to hear condemnation proceedings under § 18-15-104.

(2) Proceedings against the state, its agencies, and other instrumentalities of the state shall be brought under § 19-10-201 et seq."

AND

Page 28, delete lines 10 through 13, and substitute the following:

"(2)(A) An owner of property who prevails at trial under this section is also entitled to interest at the rate of two percentage-points greater than the prime rate as reported by the Federal Reserve System, as of the date of the taking, on the amount finally awarded as just compensation.

(B) Interest shall be calculated from the date of the taking until the date of payment to the property owner."

AND

Page 28, line 8, delete "reasonable"

AND

Page 29, delete lines 10 and 11, and substitute the following:

"property owner has the right to receive from the entity authorized by law to exercise eminent domain a good faith offer to buy the property owner's private property;"

AND



Page 31, line 27, delete "(c)(1)(A)" and substitute "(b)(2)(A)"

AND

Page 31, line 33, delete "subsection (b)" and substitute "subdivision (c)(1)(A)"

AND

Page 32, delete lines 19 through 23, and substitute the following:

"(5)(A)(i) Award an amount to include interest at the rate of two (2) percentage points greater than the prime rate as reported by the Federal Reserve System, as of the date of the taking, on any excess just compensation awarded to a property owner over the estimated just compensation deposited with the circuit clerk upon the filing of the complaint, if any.

(ii) Interest shall be calculated from the date of the surrender of possession by the property owner to the date of payment."

AND

Page 32, line 32, delete "(7)(A)" and substitute "(7)(A)(i)"

AND

Page 33, delete line 1, and substitute the following:

"including without limitation the cost of appraisals and fees for experts.

(ii) Subdivision (d)(7)(A)(i) of this section does not apply to matters in which the final award of just compensation is less than three thousand dollars (\$3,000)."

AND

Page 33, delete lines 7 through 19, and substitute the following:

"18-15-105. Property owner's right to challenge the exercise of eminent domain.

(a) A property owner desiring to challenge an entity's exercising of eminent domain shall do so by filing an action or otherwise raising the challenge in a circuit court properly authorized to hear condemnation proceedings as set forth in § 18-15-104.

(b) A challenge to the exercise of eminent domain by an entity who has instituted an action under § 18-15-104 shall be raised within thirty (30) days after service of process has been obtained as governed by the Arkansas Rules of Civil Procedure.

(c) A challenge to the exercise of eminent domain by an entity that has not initiated a condemnation proceeding under § 18-15-104 may be brought at any time before an action would be barred by the statute of limitations.

(d) Failure of a property owner to challenge the exercise of eminent domain as set forth in subsection (b) or (c) of this section shall constitute a waiver of the right to challenge the validity of the exercise of eminent domain.

(e) This section does not apply to the exercise of eminent domain by a

public utility that has been certificated to construct, own, operate, or maintain an electrical facility by the Arkansas Public Service Commission."

AND

Immediately following SECTION 119, add an additional section to read as follows:

"SECTION 120. Arkansas Code § 23-17-103 is amended to read as follows:
23-17-103. Condemnation proceedings upon failure to secure right-of-way.

In the event that the telegraph or telephone companies upon application to such individuals, railroads, or turnpike companies fail to secure a right-of-way by consent, contract, or agreement, then the telegraph or telephone corporation shall have the right to proceed to procure the condemnation of the property, lands, rights, privileges, and easements in the manner prescribed by law for taking private property for right-of-way for railroads, as provided by ~~§ 18-15-1201 et seq~~ § 18-15-104."

AND

Appropriately renumber the sections of the bill

The Amendment was read _____
By: Representative Ballinger
MGF/TDW - 03-16-2017 13:46:38
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Chief Clerk