

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1809

5 By: Representative C. Douglas
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For An Act To Be Entitled

8 AN ACT TO INCREASE FAIRNESS IN EMINENT DOMAIN
9 PROCEEDINGS FOR A PROPERTY OWNER; AND FOR OTHER
10 PURPOSES.
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Subtitle

13 TO INCREASE FAIRNESS IN EMINENT DOMAIN
14 PROCEEDINGS 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 23, Chapter 1, Subchapter 1, is amended
21 to add an additional section to read as follows:

22 23-1-116. Eminent domain – Election of property owner.

23 (a) A property owner whose property is subject to a condemnation
24 proceeding in a court of competent jurisdiction that is initiated by a public
25 utility, as defined under § 23-1-101, may require the public utility to
26 condemn additional property owned by the property owner if the property is:

27 (1) Adjacent to the property described in the petition for
28 condemnation; and

29 (2) Commercially viable.

30 (b) Within sixty (60) days after receipt of the notice of a public
31 utility's petition for condemnation, a property owner shall provide notice to
32 the court hearing the condemnation proceeding and the public utility of the
33 property owner's election authorized under subsection (a) of this section.

34 (c)(1) Within sixty (60) days after receipt of a property owner's
35 election authorized under subsection (a) of this section to transfer
36 additional property, a public utility shall provide the property owner with



1 any objections it may have to the condemnation of the additional property.

2 (2) A public utility that does not submit the information
3 required under subdivision (c)(1) of this section waives any right to object
4 to the property owner's election.

5 (d)(1) Within one hundred twenty (120) days after the filing by a
6 public utility of an objection to a property owner's election authorized
7 under subsection (a) of this section, the court shall conduct a hearing to
8 determine whether to uphold or reject the public utility's objection.

9 (2) The burden of proof in an action under subdivision (d)(1) of
10 this section is on the public utility to prove that the additional property
11 that the property owner elects to have condemned under subsection (a) of this
12 section is not:

13 (A) Adjacent to the property described in the public
14 utility's original petition for condemnation; or

15 (B) Commercially viable.

16 (e) The required acquisition of property under subsection (a) of this
17 section is considered for purposes of public use.

18 (f) A public utility shall make a written offer to acquire the
19 additional property that the property owner elects to have condemned under
20 subsection (a) of this section and amend its petition for condemnation to
21 include the additional property within one hundred twenty (120) days of:

22 (1) A property owner's election under subsection (a) of this
23 section; or

24 (2) A court order rejecting the public utility's objection to
25 the property owner's election under subsection (a) of this section.

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