

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

# A Bill

HOUSE BILL 2161

5 By: Representative Simon  
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## For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE 18-15-504, 18-15-1202,  
10 AND 18-15-1303, TO PROVIDE FOR NOTICE BY CERTIFIED  
11 MAIL TO PROPERTY OWNERS BY ELECTRIC COMPANIES,  
12 RAILROADS, AND PETROLEUM AND NATURAL GAS COMPANIES  
13 SEEKING TO CONDEMN RIGHT-OF-WAY; AND FOR OTHER  
14 PURPOSES. "

## Subtitle

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17 "TO REQUIRE NOTICE BY CERTIFIED MAIL TO  
18 PROPERTY OWNERS BY ELECTRIC COMPANIES,  
19 RAILROADS, AND PETROLEUM AND NATURAL GAS  
20 COMPANIES WHEN CONDEMNING RIGHT-OF-WAY. "  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code § 18-15-504 is amended to read as follows:  
26 "18-15-504. Petition for assessment of damages.

27 (a) Any corporation, having surveyed and located its line under the  
28 power conferred by §§ 18-15-501 - 18-15-509, if it fails to obtain, by  
29 agreement with the owner of the property through which the line may be  
30 located, the right-of-way over the property, may apply, by petition, to the  
31 circuit court of the county in which the property is situated, to have the  
32 damages for the right-of-way assessed, giving the owner of the property at  
33 least ten (10) days' notice in writing by certified mail return receipt  
34 requested of the time and place where the petition will be heard.

35 (b) In case property sought to be condemned is owned by any individual  
36 or corporation and is located in more than one (1) county, the petition may be

1 filed in the circuit court of any county in which the whole or a part of the  
 2 property may be located, and proceedings had therein will apply to all  
 3 property designated in the petition.

4 (c) If the owners of the property are nonresidents of the state,  
 5 infants, or persons of unsound mind, the notice shall be given as follows:

6 (1) ~~by~~ By publication in any newspaper in the county which is  
 7 authorized by law to publish legal notices. The notices shall be published for  
 8 the same length of time as may be required in other civil causes. If there is  
 9 no such newspaper published in the county, then the publication shall be made  
 10 in some newspaper designated by the circuit clerk and one (1) written or  
 11 printed notice thereof posted on the door of the courthouse of the county-~~i~~  
 12 and

13 (2) In writing by certified mail return receipt requested to the  
 14 address of the owners of the property as it appears on the records in the  
 15 office of the county sheriff or county tax assessor for the mailing of  
 16 statements of taxes as provided in § 26-35-705.

17 (d) The petition shall, as nearly as may be, describe the lands over  
 18 which the right-of-way is located and for which damages are asked to be  
 19 assessed, whether improved or unimproved, and be sworn to."

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 21 SECTION 2. Arkansas Code § 18-15-1202 is amended to read as follows:  
 22 "18-15-1202. Petition for condemnation.

23 (a) Any railroad, telegraph, or telephone company, organized under the  
 24 laws of this state, after having surveyed and located its lines of railroad,  
 25 telegraph, or telephone, in all cases where the companies fail to obtain the  
 26 right-of-way over the property by agreement with the owner of the property  
 27 through which the lines of railroad, telegraph, or telephone may be located,  
 28 shall apply to the circuit court of the county in which the property is  
 29 situated. Application shall be made by petition to have the damages for the  
 30 right-of-way assessed, giving the owner of the property at least ten (10)  
 31 days' notice in writing by certified mail return receipt requested of the time  
 32 and place where the petition will be heard.

33 (b) In case the property sought to be condemned is owned by any  
 34 individual or corporation and is located in more than one (1) county, the  
 35 petition may be filed in any circuit court having jurisdiction in any county  
 36 in which the whole or a part of the property may be located. Proceedings had

1 in the circuit court will apply to all property designated in the petition.

2 (c) However, if the owner of the property is a nonresident of the  
 3 state, an infant, or person of unsound mind, notice shall be given as follows:

4 (1) ~~by~~ By publication in any newspaper in the county which is  
 5 authorized by law to publish legal notices. The notice shall be published for  
 6 the same length of time as may be required in other civil causes. If there is  
 7 no such newspaper published in the county, then the publication shall be made  
 8 in some newspaper designated by the circuit clerk, and one (1) written or  
 9 printed notice thereof shall be posted on the door of the courthouse of the  
 10 county-; and

11 (2) In writing by certified mail return receipt requested to the  
 12 address of the owners of the property as it appears on the records in the  
 13 office of the county sheriff or county tax assessor for the mailing of  
 14 statements of taxes as provided in § 26-35-705.

15 (d) The petition shall, nearly as may be, describe the lands over which  
 16 the road is located and for which damages are asked to be assessed, whether  
 17 improved or unimproved, and be sworn to."

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 19 SECTION 3. Arkansas Code § 18-15-1303, pertaining to the condemnation  
 20 procedure for petroleum and gas pipeline companies, is amended to read as  
 21 follows:

22 "18-15-1303. Procedure for condemnation.

23 In the event any company fails, upon application to individuals,  
 24 railroads, or turnpike companies, to secure the right-of-way by consent,  
 25 contract, or agreement, then the corporation shall have the right to proceed  
 26 to procure the condemnation of the property, lands, rights, privileges, and  
 27 easements in the manner provided by law for taking private property for right-  
 28 of-way for railroads as provided by §§ 18-15-1201 - 18-15-1207, including the  
 29 procedure for providing notice by publication and by certified mail in § 18-  
 30 15-1202."

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 32 SECTION 4. All provisions of this act of a general and permanent nature  
 33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
 34 Revision Commission shall incorporate the same in the Code.

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 36 SECTION 5. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect  
2 other provisions or applications of the act which can be given effect without  
3 the invalid provision or application, and to this end the provisions of this  
4 act are declared to be severable.

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6 SECTION 6. All laws and parts of laws in conflict with this act are  
7 hereby repealed.

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