

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas *As Engrossed: S2/5/07 S2/13/07 S2/20/07*

2 86th General Assembly

A Bill

3 Regular Session, 2007

SENATE BILL 69

4

5 By: Senators Whitaker, Faris, Trusty, Horn, T. Smith

6 By: Representatives R. Green, Pyle, Walters, D. Creekmore, Burris, Edwards, Key, Sample, Hardwick,

7 Woods, Cornwell, D. Hutchinson

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10 For An Act To Be Entitled

11 AN ACT TO LIMIT THE SCOPE OF EMINENT DOMAIN POWER
12 TO PROTECT PROPERTY OWNERS' RIGHTS; AND FOR OTHER
13 PURPOSES.

14

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Subtitle

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TO LIMIT THE SCOPE OF EMINENT DOMAIN

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POWER TO PROTECT PROPERTY OWNERS'

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RIGHTS.

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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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23 SECTION 1. Arkansas Code Title 18, Chapter 15, Subchapter 1 is amended
24 to add additional sections to read as follows:

25 18-15-103. Limitations on power of eminent domain.

26 (a) An entity given the power of eminent domain by law shall not take
27 property for public use:

28 (1) For the stated purpose of enhancing tax revenue; or

29 (2) For the purpose of transferring property to another entity
30 to achieve a purpose distinct from the initial purpose stated for
31 commencement of an eminent domain proceeding.

32 (b)(1) After a condemning entity makes a deposit to the court on the
33 affected property, a hearing is held, and the condemning entity takes
34 possession of the property, the affected property owner or owners shall have
35 immediate access to the deposit.

36 (2) The condemning entity shall be given credit for the



1 deposited amount upon a determination of just compensation.

2 (3) The condemning entity shall declare its' opinion of the
3 value of the condemned property at the commencement of the eminent domain
4 proceeding.

5 (4) Neither payment of the deposited amount by the condemning
6 entity nor access to the deposit by the affected property owner or owners
7 shall constitute a waiver of any claims or defenses.

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9 18-15-104. Approval by local governing authority.

10 In any eminent domain proceeding initiated by a board, commission, or
11 entity of a municipality or county, the board, commission, or entity shall
12 receive approval from the governing authority of the municipality or county
13 prior to commencement of the eminent domain proceeding.

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15 18-15-105. Compensation to property owner.

16 (a) In any eminent domain proceeding:

17 (1) Just compensation shall be determined by a jury unless a
18 jury determination is waived by the affected property owner or owners;

19 (2) Just compensation may include costs and losses incurred by
20 the affected property owner or owners as a result of the eminent domain
21 proceeding that a judge or jury find appropriate; and

22 (3) Present or future enhanced value of any remaining property
23 adjoining the condemned property owned by an affected property owner or
24 owners shall not satisfy the requirement of just compensation.

25 (b) After a determination of just compensation by the fact finder,
26 full payment shall be made to the affected property owner or owners within
27 thirty (30) days of judgment or upon the expiration of the time frame allowed
28 by law for an appeal, whichever occurs last.

29 (c) This section shall not apply to electric, natural gas, water, or
30 telephone utilities.

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32 SECTION 2. Arkansas Code § 14-168-301(3), concerning the definition of
33 "blighted area", is amended to read as follows:

34 (3)(A) "Blighted area" means an area in which the structures,
35 buildings, or improvements, by reason of dilapidation, deterioration, age or
36 obsolescence, inadequate provision for access, ventilation, light, air,

1 sanitation, or open spaces, high density of population, and overcrowding or
2 the existence of conditions which endanger life or property, are detrimental
3 to the public health, safety, morals, or welfare.

4 (B) "Blighted area" includes any area which, by reason of
5 the presence of a substantial number of substandard, slum, deteriorated or
6 deteriorating structures, predominance of defective or inadequate street
7 layout, faulty lot layout in relation to size, adequacy, accessibility, or
8 usefulness, unsanitary or unsafe conditions, deterioration of site or other
9 improvements, diversity of ownership, tax on special assessment delinquency
10 exceeding the fair value of the land, defective or unusual conditions of
11 title, or the existence of conditions which endanger life or property by fire
12 and other causes, or any combination of such factors, substantially impairs
13 or arrests the sound growth of a city, retards the provision of housing
14 accommodations, or constitutes an economic or social liability and is a
15 menace to the public health, safety, morals, or welfare in its present
16 condition and use, or any area which is predominantly open and which because
17 of lack of accessibility, obsolete platting, diversity of ownership,
18 deterioration of structures or of site improvements, or otherwise,
19 substantially impairs or arrests the sound growth of the community+.

20 (C) "Blighted area" does not include property that is
21 primarily used for agricultural purposes;

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23 /s/ Whitaker
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