

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 S3/21/07

2 86th General Assembly

A Bill

3 Regular Session, 2007

SENATE BILL 69

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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, *Norton*

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

32 (B) If condemned property is not used for the initial
33 purpose for which it was taken, the former property owner or owners or their
34 heirs shall have the right to acquire the property for the amount of just
35 compensation that the fact finder determined at the conclusion of the eminent
36 domain proceeding.



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

5 (2) The condemning entity shall be given credit for the
6 deposited amount upon a determination of just compensation.

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

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

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14 18-15-104. Approval by local governing authority.

15 In any eminent domain proceeding initiated by a board, commission, or
16 entity of a municipality or county, the board, commission, or entity shall
17 receive approval prior to commencement of the eminent domain proceeding from:

18 (1) In the case of a municipality, the governing authority of
19 the municipality; or

20 (2) In the case of a county, the county judge.

21 18-15-105. Compensation to property owner.

22 (a) In any eminent domain proceeding:

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

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

28 (3)(A) Present or future enhanced value of any remaining
29 property adjoining the condemned property owned by an affected property owner
30 or owners shall not satisfy the requirement of just compensation, unless the
31 condemning entity posts a bond on the affected property in the amount of the
32 enhanced value as determined by the finder of fact.

33 (B) If the present or future enhanced value of any
34 remaining property adjoining the condemned property is not realized within
35 five (5) years of the conclusion of the eminent domain proceeding, then the
36 affected property owner or owners or their heirs may sue on the bond.

