

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H3/25/13 H4/18/13

A Bill

HOUSE BILL 1042

5 By: Representative Bell
6 By: Senator Rapert
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAWS CONCERNING EMINENT DOMAIN;
10 AND FOR OTHER PURPOSES.
11

Subtitle

14 TO AMEND THE LAWS CONCERNING EMINENT
15 DOMAIN.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 *SECTION 1. DO NOT CODIFY. Findings and intent.*

21 *(a) In 2005, the United States Supreme Court issued a ruling in Kelo*
22 *v. City of New London that could potentially change the landscape for eminent*
23 *domain matters across the country.*

24 *(b) The purpose of this bill is to emphasize and promote the*
25 *protection of private property from government taking for a private use.*

26 *(c) It is the intent of this bill that an entity given the power of*
27 *eminent domain by law shall not condemn property for the purposes of:*

28 *(1) Developing private retail, office, commercial, industrial,*
29 *or residential development;*

30 *(2) Enhancing tax revenue; or*

31 *(3) Transferring property to another entity to achieve a purpose*
32 *distinct from the initial purpose stated for commencement of an eminent*
33 *domain proceeding.*

34 *(d)(1) It is not the intent of this bill to extend any new powers to*
35 *the entities exempted under this bill.*

36 *(2) The entities are exempted as they are not within the scope*



1 of this bill.

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3 SECTION 2. Arkansas Code Title 18, Chapter 15, Subchapter 1, is
4 amended to add a new section to read as follows:

5 18-15-103. Limitations.

6 (a) Private real property shall be acquired by eminent domain only if
7 necessary for a public use by a public agency.

8 (b) Private property shall not be acquired by eminent domain for a
9 private commercial enterprise, economic development in the private sector, or
10 any other private use except use by:

11 (1) Privately owned utilities;

12 (2) Electric cooperatives;

13 (3) Publicly owned utilities;

14 (4) Utilities owned by improvement districts;

15 (5) Pipeline companies;

16 (6) Railroads; and

17 (7) Other common carriers.

18 (c) Real property shall not be taken from an owner and transferred to
19 another owner with or without compensation on the grounds that the public
20 will benefit from a more profitable use of the real property.

21 (b) If an attempt is made to acquire real property through eminent
22 domain for a public use, the property owner may request a judicial
23 determination of whether the acquisition is for a public use.

24 (e) This section is supplemental to all other laws placing
25 restrictions on the acquisition of real property through the use of eminent
26 domain.

27 (f) This section does not apply to real property acquired by:

28 (1) The State Highway Commission or the Arkansas State Highway
29 and Transportation Department by eminent domain under § 27-67-301 et seq.; or

30 (2) A county or municipality exclusively for the purpose of
31 constructing, repairing, maintaining, or improving a roadway, street, road,
32 or right-of-way within the county or municipality.

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35 /s/Bell