

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

*As Engrossed: S3/18/13*

# A Bill

SENATE BILL 819

5 By: Senator A. Clark  
6

## For An Act To Be Entitled

8 AN ACT TO REVISE THE LAW CONCERNING THE PROCESS FOR A  
9 COUNTY JUDGE TO ESTABLISH ACCESS EASEMENTS FOR  
10 LANDLOCKED OWNERS OF REAL PROPERTY TO PREVENT A  
11 TAKING OF PROPERTY WITHOUT DUE PROCESS; AND FOR OTHER  
12 PURPOSES.  
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### Subtitle

15 TO REVISE THE LAW CONCERNING THE PROCESS  
16 FOR A COUNTY JUDGE TO ESTABLISH ACCESS  
17 EASEMENTS FOR LANDLOCKED OWNERS OF REAL  
18 PROPERTY TO COMPORT WITH DUE PROCESS.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. *Arkansas Code § 27-66-401(d), concerning the establishment*  
25 *of certain access easements, is amended to read as follows:*

26 (d) After the petition is filed, the county court shall issue a notice  
27 setting the time, date, and location of a preliminary hearing, and the  
28 hearing shall not be any earlier than sixty (60) days from the date of the  
29 petition filing.  
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31 SECTION 2. *Arkansas Code § 27-66-401(f)(2)(B), concerning the*  
32 *establishment of certain access easements, is amended to read as follows:*

33 (B) If viewers are appointed by the court, the court shall:

34 (i) Issue a preliminary order directing the landlocked  
35 petitioner to deposit into the registry of the court an estimated sum  
36 sufficient for payment of ~~damages and for payment of the costs and expenses~~



1 ~~accruing on account of the petition, notice, view, and survey for the access~~  
 2 ~~easement; and:~~

3 (a) Viewers' fees and expenses;

4 (b) The survey cost;

5 (c) Damages related to the adjoining owner's property,  
 6 including without limitation an estimate of:

7 (1) The loss of property value for the area of  
 8 acquisition;

9 (2) The loss of exclusive use the adjoining owner  
 10 will realize; and

11 (3) Damages to the owner's remaining property; and

12 (d) Notice and publication costs if any;

13 (ii) Set the time, date, and location of the  
 14 evidentiary hearing; and

15 (iii) Require the funds deposited to be used  
 16 exclusively for the purposes stated under this subsection.

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 18 *SECTION 3. Arkansas Code § 27-66-403(a)(3)(A), concerning the court*  
 19 *order, is amended to read as follows:*

20 (3)(A)(i) If the petitioner complies with the court's order  
 21 under § 27-66-401 and deposits into the registry of the county court the  
 22 estimated sum, the ~~The~~ evidentiary hearing may be held and the opportunity to  
 23 present evidence and cross-examine witnesses if:

24 (a) At least sixty (60) days have passed since the  
 25 initial petition was filed;

26 (b) The landlocked petitioner has complied with the  
 27 court's order under § 27-66-401; and

28 (c) The landlocked petitioner has deposited the  
 29 estimated sum under § 27-66-401(j).

30 (ii) At the evidentiary hearing, all parties shall have  
 31 the opportunity to present evidence and cross-examine witnesses.

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 33 *SECTION 4. Arkansas Code § 27-66-403(a)(3)(B)(ii)(c), concerning the*  
 34 *court order, is amended to read as follows:*

35 (c) The order shall state that:

36 (1) The respondent retains title to the

1 *lands over which the road passes; ~~and~~*

2 *(2) The road is for an access easement*  
3 *only and is not an easement for any other purpose, including a public*  
4 *utility; and*

5 *(3) The landlocked petitioner did not*  
6 *cause the landlocked property condition, including without limitation by*  
7 *selling, donating, or otherwise disposing of his or her interest in adjoining*  
8 *land that created the landlocked property condition.*

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10 *SECTION 5. Arkansas Code § 27-66-403(b), concerning the court order,*  
11 *is amended to read as follows:*

12 *(b)(1) Either party may appeal to the circuit court from the final*  
13 *order or judgment of the county court within thirty (30) days from the entry*  
14 *of the order and not thereafter.*

15 *(2) The review by the circuit court shall be de novo and for*  
16 *strict compliance with this subchapter and any additional violations of the*  
17 *due process rights of the parties.*

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19 */s/A. Clark*  
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