

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: S3/6/19

A Bill

SENATE BILL 319

5 By: Senator B. Ballinger
6 By: Representative Gonzales
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING EMINENT DOMAIN; TO
10 ADD NEW DEFINITIONS UNDER EMINENT DOMAIN; AND FOR
11 OTHER PURPOSES.
12
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Subtitle

15 TO AMEND THE LAW CONCERNING EMINENT
16 DOMAIN; AND TO ADD NEW DEFINITIONS UNDER
17 EMINENT DOMAIN.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 18, Chapter 15, Subchapter 1, is
23 amended to add an additional section to read as follows:

24 18-15-104. Definitions.

25 As used in this chapter:

26 (1) "Abandoned property" means property that:

27 (A) Has not been occupied or used for a commercial or
28 residential purpose for at least one (1) year by a person with a legal or
29 equitable right to occupy or use the property;

30 (B) Has been cited for a violation of a housing, building,
31 or fire code that has not been remedied within one hundred eighty days (180)
32 from the date the citation was issued; and

33 (C) Has accrued at least two (2) years of delinquent
34 property taxes;

35 (2) "Blighted property" means a building, in its current
36 condition, which has been designated and cited as unfit for human use or



1 habitation by the agency responsible for enforcement of housing, building, or
2 fire codes because the:

3 (A) Building is dilapidated, unsanitary, or unsafe;

4 (B) Building is a fire hazard; or

5 (C) Electricity, heating, or plumbing has been destroyed
6 or removed;

7 (3) "Local government" means the elected governing body of a
8 city, county, or township;

9 (4)(A) "Public use" means the taking of private property by an
10 entity authorized under this chapter using the power of eminent domain for
11 the purpose of:

12 (i) Possessing, occupying, and owning property for
13 the enjoyment of the general public or public agency;

14 (ii) Possessing, occupying, and owning property for
15 the necessary operations of a utility or common carrier that the general
16 public has a right to use;

17 (iii) Remediating and reselling blighted property;
18 or

19 (iv) Possessing and reselling abandoned property.

20 (B) "Public use" does not include the taking of private
21 property for the economic benefit of the general public, including without
22 limitation for the purpose of an increase in the tax base, tax revenues, or
23 employment.

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25 SECTION 2. Arkansas Code Title 18, Chapter 15, Subchapter 2, is
26 amended to add additional sections to read as follows:

27 18-15-203. Administrative warrant.

28 (a) For the purposes of establishing the basis for the use of eminent
29 domain for the remediation of a blighted property or for the possession of an
30 abandoned property, a local government may request an administrative warrant
31 from a judge or magistrate to gain access to inspect a building on the
32 property.

33 (b)(1) The judge or magistrate may allow the local government to
34 present evidence that shows that there is probable cause that a violation
35 occurred, notice of the violation has been served on the owner of the
36 property, the owner has failed to cure the violation, and the owner has

1 denied the local government access to the building.

2 (2) The local government may use items of evidence to the
3 following items of evidence to support a conclusion of probable cause,
4 including without limitation evidence of:

5 (A) A recent fire or police inspection;

6 (B) Deterioration of the building's exterior; or

7 (C) Other violations of the municipal code in the
8 building.

9 18-15-204. Cause of action.

10 (a) The owner of private property may bring a cause of action in
11 circuit court to determine whether his or her private property is lawfully
12 being taken:

13 (1) For a public or private use;

14 (2) As blighted property; or

15 (3) As abandoned property.

16 (b) An entity authorized to use the power of eminent domain under this
17 chapter has the burden of proof to show by a preponderance of the evidence
18 that the private property is lawfully being taken for the purposes authorized
19 under subsection (a) of this section.

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21 SECTION 3. Arkansas Code § 18-15-1202(b), concerning railroad
22 condemnation proceedings, is amended to read as follows:

23 (b)(1) In case the property sought to be condemned for public use is
24 owned by ~~any~~ an individual or corporation and is located in more than one (1)
25 county, the petition may be filed in ~~any~~ a circuit court having jurisdiction
26 in any county in which the whole or a part of the property ~~may be~~ is located.

27 (2) Proceedings had in the circuit court ~~will~~ shall apply to all
28 property designated in the petition.

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31 /s/B. Ballinger
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