

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

HOUSE BILL 1809

By: Representative C. Douglas

For An Act To Be Entitled

AN ACT TO INCREASE FAIRNESS IN EMINENT DOMAIN
PROCEEDINGS FOR A PROPERTY OWNER; AND FOR OTHER
PURPOSES.

Subtitle

TO INCREASE FAIRNESS IN EMINENT DOMAIN
PROCEEDINGS FOR A PROPERTY OWNER.

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

SECTION 1. Arkansas Code Title 23, Chapter 1, Subchapter 1, is amended to add an additional section to read as follows:

23-1-116. Eminent domain – Election of property owner.

(a) A property owner whose property is subject to a condemnation proceeding in a court of competent jurisdiction that is initiated by a public utility, as defined under § 23-1-101, may require the public utility to condemn additional property owned by the property owner if the property is:

(1) Adjacent to the property described in the petition for condemnation; and

(2) Commercially viable.

(b) Within sixty (60) days after receipt of the notice of a public utility's petition for condemnation, a property owner shall provide notice to the court hearing the condemnation proceeding and the public utility of the property owner's election authorized under subsection (a) of this section.

(c)(1) Within sixty (60) days after receipt of a property owner's election authorized under subsection (a) of this section to transfer additional property, a public utility shall provide the property owner with



any objections it may have to the condemnation of the additional property.

(2) A public utility that does not submit the information required under subdivision (c)(1) of this section waives any right to object to the property owner's election.

(d)(1) Within one hundred twenty (120) days after the filing by a public utility of an objection to a property owner's election authorized under subsection (a) of this section, the court shall conduct a hearing to determine whether to uphold or reject the public utility's objection.

(2) The burden of proof in an action under subdivision (d)(1) of this section is on the public utility to prove that the additional property that the property owner elects to have condemned under subsection (a) of this section is not:

(A) Adjacent to the property described in the public utility's original petition for condemnation; or

(B) Commercially viable.

(e) The required acquisition of property under subsection (a) of this section is considered for purposes of public use.

(f) A public utility shall make a written offer to acquire the additional property that the property owner elects to have condemned under subsection (a) of this section and amend its petition for condemnation to include the additional property within one hundred twenty (120) days of:

(1) A property owner's election under subsection (a) of this section; or

(2) A court order rejecting the public utility's objection to the property owner's election under subsection (a) of this section.