

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: H3/23/15 S3/26/15
A Bill

HOUSE BILL 1908

By: Representatives Beck, C. Douglas, *Drown*

By: *Senator J. Hutchinson*

For An Act To Be Entitled

AN ACT TO ESTABLISH A BILL OF RIGHTS FOR A PROPERTY
OWNER; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH A BILL OF RIGHTS FOR A
PROPERTY OWNER.

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

SECTION 1. Arkansas Code Title 18, Chapter 15, Subchapter 1, is amended to add an additional section to read as follows:

18-15-103. Bill of rights — Property owner.

(a) The principles expressed in subsection (b) of this section shall serve as standards to be followed in any proceeding that involves an entity authorized by law to exercise the power of eminent domain.

(b) An owner of property subject to a proceeding to condemn private property under the right of eminent domain shall have the following bill of rights:

(1) A property owner is entitled to receive just compensation when private property is taken for a public use;

(2) Private property may only be taken for public use;

(3) Private property may only be taken by a governmental entity or a private entity authorized by law to exercise the power of eminent domain;

(4) A property owner has the right to receive reasonable notification of an entity's interest in taking the property owner's private



property;

(5)(A) A property owner shall receive from the government or private entity an assessment of the just compensation the entity estimates for the property owner's private property before or contemporaneously with a good faith offer of just compensation.

(B) However, when a property owner cannot be located and must be served by warning order, a filing of the assessment with the complaint for condemnation shall be sufficient compliance with subdivision (b)(5)(A) of this section;

(6) An entity shall make a good faith offer to buy the property owner's private property before initiating a condemnation proceeding;

(7) A property owner has the right to hire an appraiser or other independent professional to determine the value of the private property or to assist the property owner in a condemnation proceeding;

(8) A property owner has the right to hire an attorney to represent the property owner in a condemnation proceeding and negotiate on behalf of the property owner with the entity;

(9) In a proceeding to condemn private property under the right of eminent domain, the circuit court shall impanel a jury of twelve (12) persons as in civil cases to determine the just compensation the government or private entity owes the property owner;

(10) Any party has the right to appeal a decision entered by the circuit court under subdivision (b)(9) of this section; and

(11)(A) Except as provided in subdivision (b)(11)(B) of this section, in a condemnation brought under the laws of this state, a property owner shall be entitled to an award of the property owner's costs, expenses, and reasonable attorney's fees incurred in preparing and conducting the final hearing and adjudication, including without limitation the cost of appraisals and fees for experts, if the compensation ultimately awarded exceeds the condemning entity's initial assessment of the just compensation owed by twenty percent (20%) or more.

(B) An award of costs, expenses, and attorney's fees in a condemnation action brought by a county or municipality is governed by the laws that authorize the condemnation action.

SECTION 2. Arkansas Code § 27-67-317(b), concerning compensation for

taking private property, is amended to read as follows:

(b) If the compensation finally awarded exceeds the amount of money deposited by ~~ten percent (10%)~~ twenty percent (20%) or more, the court shall enter judgment against the State of Arkansas and in favor of the party entitled thereto for the amount of the deficiency and shall award the party entitled to judgment its costs, expenses, and reasonable attorney's fees incurred in preparing and conducting the final hearing and adjudication, including without limitation the cost of appraisals and fees for experts.

/s/Beck