

PROPERTY CODE

TITLE 4. ACTIONS AND REMEDIES

CHAPTER 21. EMINENT DOMAIN

SUBCHAPTER A. JURISDICTION

Sec. 21.001. CONCURRENT JURISDICTION. District courts and county courts at law have concurrent jurisdiction in eminent domain cases. A county court has no jurisdiction in eminent domain cases.

Acts 1983, 68th Leg., p. 3498, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.002. TRANSFER OF CASES. If an eminent domain case is pending in a county court at law and the court determines that the case involves an issue of title or any other matter that cannot be fully adjudicated in that court, the judge shall transfer the case to a district court.

Acts 1983, 68th Leg., p. 3498, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.003. DISTRICT COURT AUTHORITY. A district court may determine all issues, including the authority to condemn property and the assessment of damages, in any suit:

(1) in which this state, a political subdivision of this state, a person, an association of persons, or a corporation is a party; and

(2) that involves a claim for property or for damages to property occupied by the party under the party's eminent domain authority or for an injunction to prevent the party from entering or using the property under the party's eminent domain authority.

Acts 1983, 68th Leg., p. 3498, ch. 576, Sec. 1, eff. Jan. 1, 1984.

SUBCHAPTER B. PROCEDURE

Sec. 21.011. STANDARD PROCEDURE. Exercise of the eminent domain authority in all cases is governed by Sections 21.012 through 21.016 of this code.

Acts 1983, 68th Leg., p. 3498, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.0111. DISCLOSURE OF CERTAIN INFORMATION REQUIRED; INITIAL OFFER. (a) An entity with eminent domain authority that wants to acquire real property for a public use shall, by certified mail, return receipt requested, disclose to the property owner at the time an offer to purchase or lease the property is made any and all appraisal reports produced or acquired by the entity relating specifically to the owner's property and prepared in the 10 years preceding the date of the offer.

(b) A property owner shall disclose to the entity seeking to acquire the property any and all current and existing appraisal reports produced or acquired by the property owner relating specifically to the owner's property and used in determining the owner's opinion of value. Such disclosure shall take place not later than the earlier of:

(1) the 10th day after the date of receipt of an appraisal report; or

(2) the third business day before the date of a special commissioner's hearing if an appraisal report is to be used at the hearing.

(c) An entity seeking to acquire property that the entity is authorized to obtain through the use of eminent domain may not include a confidentiality provision in an offer or agreement to acquire the property. The entity shall inform the owner of the property that the owner has the right to:

(1) discuss any offer or agreement regarding the entity's acquisition of the property with others; or

(2) keep the offer or agreement confidential, unless the offer or agreement is subject to Chapter 552, Government Code.

(d) A subsequent bona fide purchaser for value from the acquiring entity may conclusively presume that the requirement of this section has been met. This section does not apply to acquisitions of real property for which an entity does not have eminent domain authority.

Added by Acts 1995, 74th Leg., ch. 566, Sec. 1, eff. Aug. 28, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 7, eff. September 1, 2011.

Sec. 21.0112. PROVISION OF LANDOWNER'S BILL OF RIGHTS STATEMENT REQUIRED. (a) Not later than the seventh day before the date a governmental or private entity with eminent domain authority makes a final offer to a property owner to acquire real property, the entity must send by first-class mail or otherwise provide a landowner's bill of rights statement provided by Section 402.031, Government Code, to the last known address of the person in whose name the property is listed on the most recent tax roll of any appropriate taxing unit authorized by law to levy property taxes against the property.

In addition to the other requirements of this subsection, an entity with eminent domain authority shall provide a copy of the landowner's bill of rights statement to a landowner before or at the same time as the entity first represents in any manner to the landowner that the entity possesses eminent domain authority.

(b) The statement must be:

(1) printed in an easily readable font and type size;
and

(2) if the entity is a governmental entity, made available on the Internet website of the entity if technologically feasible.

Added by Acts 2007, 80th Leg., R.S., Ch. 1201 (H.B. 1495), Sec.

3, eff. February 1, 2008.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1145 (H.B. 2685), Sec. 1, eff. January 15, 2010.

Sec. 21.0113. BONA FIDE OFFER REQUIRED. (a) An entity with eminent domain authority that wants to acquire real property for a public use must make a bona fide offer to acquire the property from the property owner voluntarily.

(b) An entity with eminent domain authority has made a bona fide offer if:

- (1) an initial offer is made in writing to a property owner;
- (2) a final offer is made in writing to the property owner;
- (3) the final offer is made on or after the 30th day after the date on which the entity makes a written initial offer to the property owner;
- (4) before making a final offer, the entity obtains a written appraisal from a certified appraiser of the value of the property being acquired and the damages, if any, to any of the property owner's remaining property;
- (5) the final offer is equal to or greater than the amount of the written appraisal obtained by the entity;
- (6) the following items are included with the final offer or have been previously provided to the owner by the entity:
 - (A) a copy of the written appraisal;
 - (B) a copy of the deed, easement, or other instrument conveying the property sought to be acquired; and
 - (C) the landowner's bill of rights statement prescribed by Section 21.0112; and
- (7) the entity provides the property owner with at least 14 days to respond to the final offer and the property owner does not agree to the terms of the final offer within that period.

Added by Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 8,

eff. September 1, 2011.

Sec. 21.012. CONDEMNATION PETITION. (a) If an entity with eminent domain authority wants to acquire real property for public use but is unable to agree with the owner of the property on the amount of damages, the entity may begin a condemnation proceeding by filing a petition in the proper court.

(b) The petition must:

- (1) describe the property to be condemned;
- (2) state with specificity the public use for which the entity intends to acquire the property;
- (3) state the name of the owner of the property if the owner is known;
- (4) state that the entity and the property owner are unable to agree on the damages;
- (5) if applicable, state that the entity provided the property owner with the landowner's bill of rights statement in accordance with Section [21.0112](#); and
- (6) state that the entity made a bona fide offer to acquire the property from the property owner voluntarily as provided by Section [21.0113](#).

(c) An entity that files a petition under this section must provide a copy of the petition to the property owner by certified mail, return receipt requested.

Acts 1983, 68th Leg., p. 3498, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1201 (H.B. [1495](#)), Sec. 4, eff. February 1, 2008.

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. [18](#)), Sec. 9, eff. September 1, 2011.

Sec. 21.0121. CONDEMNATION TO ACQUIRE WATER RIGHTS. (a) In addition to the contents prescribed by Section [21.012](#)(b), a condemnation petition filed by a political subdivision of this state for the purpose of acquiring rights to groundwater or

surface water must state that the facts to be proven are that the political subdivision has:

- (1) prepared a drought contingency plan;
- (2) developed and implemented a water conservation plan that will result in the highest practicable levels of water conservation and efficiency achievable in the political subdivision's jurisdiction;
- (3) made a bona fide good faith effort to obtain practicable alternative water supplies to the water rights the political subdivision proposes to condemn;
- (4) made a bona fide good faith effort to acquire the rights to the water the political subdivision proposes to condemn by voluntary purchase or lease; and
- (5) made a showing that the political subdivision needs the water rights to provide for the domestic needs of the political subdivision within the next 10-year period.

(b) A court shall deny the right to condemn unless the political subdivision proves to the court that the political subdivision has met the requirements of Subsection (a).

Added by Acts 2003, 78th Leg., ch. 1032, Sec. 1, eff. Sept. 1, 2003.

Sec. 21.013. VENUE; FEES AND PROCESSING FOR SUIT FILED IN DISTRICT COURT. (a) The venue of a condemnation proceeding is the county in which the owner of the property being condemned resides if the owner resides in a county in which part of the property is located. Otherwise, the venue of a condemnation proceeding is any county in which at least part of the property is located.

(b) Except where otherwise provided by law, a party initiating a condemnation proceeding in a county in which there is one or more county courts at law with jurisdiction shall file the petition with any clerk authorized to handle such filings for that court or courts.

(c) A party initiating a condemnation proceeding in a county in which there is not a county court at law must file the condemnation petition with the district clerk. The filing

fee shall be due at the time of filing in accordance with Section 51.317, Government Code.

(d) District and county clerks shall assign an equal number of eminent domain cases in rotation to each court with jurisdiction that the clerk serves.

Acts 1983, 68th Leg., p. 3499, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1993, 73rd Leg., ch. 760, Sec. 1, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 756, Sec. 1, eff. June 18, 1999.

Sec. 21.014. SPECIAL COMMISSIONERS. (a) The judge of a court in which a condemnation petition is filed or to which an eminent domain case is assigned shall appoint three disinterested real property owners who reside in the county as special commissioners to assess the damages of the owner of the property being condemned. The judge appointing the special commissioners shall give preference to persons agreed on by the parties. The judge shall provide each party a reasonable period to strike one of the three commissioners appointed by the judge. If a person fails to serve as a commissioner or is struck by a party to the suit, the judge shall appoint a replacement.

(b) The special commissioners shall swear to assess damages fairly, impartially, and according to the law.

(c) Special commissioners may compel the attendance of witnesses and the production of testimony, administer oaths, and punish for contempt in the same manner as a county judge.

Acts 1983, 68th Leg., p. 3499, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 10, eff. September 1, 2011.

Sec. 21.015. HEARING. (a) The special commissioners in an eminent domain proceeding shall promptly schedule a hearing for the parties at the earliest practical time but may not schedule a hearing to assess damages before the 20th day after

the date the special commissioners were appointed. The special commissioners shall schedule a hearing for the parties at a place that is as near as practical to the property being condemned or at the county seat of the county in which the proceeding is being held.

(b) After notice of the hearing has been served, the special commissioners shall hear the parties at the scheduled time and place or at any other time or place to which they may adjourn the hearing.

Acts 1983, 68th Leg., p. 3500, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 11, eff. September 1, 2011.

Sec. 21.016. NOTICE. (a) Each party in an eminent domain proceeding is entitled to written notice issued by the special commissioners informing the party of the time and place of the hearing.

(b) Notice of the hearing must be served on a party not later than the 20th day before the day set for the hearing. A person competent to testify may serve the notice.

(c) A person who serves a notice shall return the original notice to the special commissioners on or before the day set for hearing. The person shall write a return of service on the notice that states how and when it was served.

(d) Notice may be served:

(1) by delivering a copy of the notice to the party or to the party's agent or attorney;

(2) if the property being condemned belongs to a deceased's estate or to a minor or other legally disabled person and the person or estate has a legal representative, by delivering a copy of the notice to the legal representative;
or

(3) if the property being condemned belongs to a nonresident of this state and there has been no personal service on the owner, if the identity or the residence of the

property owner is unknown, or if the property owner avoids service of notice by hiding, by publication in the same manner as service of citation by publication in other civil cases in the district courts or county courts at law.

Acts 1983, 68th Leg., p. 3500, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 12, eff. September 1, 2011.

Sec. 21.017. ALTERNATIVE PLEADINGS. (a) This state, a political subdivision of this state, a person, an association of persons, or a corporation that is a party to a suit covered by Section 21.003 of this code by petition, cross-bill, or plea of intervention may assert a claim to the property or, alternatively, seek to condemn the property.

(b) A plea under this section is not an admission of an adverse party's title to the property in controversy.

Acts 1983, 68th Leg., p. 3501, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.018. APPEAL FROM COMMISSIONERS' FINDINGS. (a) A party to a condemnation proceeding may object to the findings of the special commissioners by filing a written statement of the objections and their grounds with the court that has jurisdiction of the proceeding. The statement must be filed on or before the first Monday following the 20th day after the day the commissioners file their findings with the court.

(b) If a party files an objection to the findings of the special commissioners, the court shall cite the adverse party and try the case in the same manner as other civil causes.

Acts 1983, 68th Leg., p. 3501 ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.019. DISMISSAL OF CONDEMNATION PROCEEDINGS. (a) A party that files a condemnation petition may move to dismiss

the proceedings, and the court shall conduct a hearing on the motion. However, after the special commissioners have made an award, in an effort to obtain a lower award a condemnor may not dismiss the condemnation proceedings merely to institute new proceedings that involve substantially the same condemnation against the same property owner.

(b) A court that hears and grants a motion to dismiss a condemnation proceeding made by a condemnor under Subsection (a) shall make an allowance to the property owner for reasonable and necessary fees for attorneys, appraisers, and photographers and for the other expenses incurred by the property owner to the date of the hearing.

(c) A court that hears and grants a motion to dismiss a condemnation proceeding made by a property owner seeking a judicial denial of the right to condemn or that otherwise renders a judgment denying the right to condemn may make an allowance to the property owner for reasonable and necessary fees for attorneys, appraisers, and photographers and for the other expenses incurred by the property owner to the date of the hearing or judgment.

Acts 1983, 68th Leg., p. 3501, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1987, 70th Leg., ch. 483, Sec. 1, eff. Aug. 31, 1987.

Sec. 21.0195. DISMISSAL OF CERTAIN CONDEMNATION PROCEEDINGS; TEXAS DEPARTMENT OF TRANSPORTATION. (a) This section applies only to the dismissal of a condemnation proceeding that involves the Texas Department of Transportation.

(b) The department may move to dismiss a proceeding it files, and the court shall conduct a hearing on the motion. The court may grant the motion only if the court determines that the property owner's interest will not be materially affected by the dismissal. The department may not dismiss the condemnation proceedings merely to institute new proceedings that involve substantially the same condemnation against the same property owner solely to obtain a lower condemnation

award.

(c) If a court dismisses a condemnation proceeding on the motion of the department or as a result of the failure of the department to bring the proceeding properly, the court shall make an allowance to the property owner for the value of the department's use of the property while in possession of the property, any damage that the condemnation has caused to the property owner, and any expenses the property owner has incurred in connection with the condemnation, including reasonable and necessary fees for attorneys.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.46(a), eff. Sept. 1, 1997.

Sec. 21.020. REINSTATEMENT OF CONDEMNATION PROCEEDINGS. If a condemnor moves to dismiss a condemnation proceeding and subsequently files a petition to condemn substantially the same property interest from the same property owner, the court may not appoint new special commissioners but shall enter the award of the special commissioners in the first proceeding as the award in the second. The court shall award the property owner triple the amount of the expenses that were allowed the property owner prior to the dismissal of the first proceeding.

Acts 1983, 68th Leg., p. 3502, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.021. POSSESSION PENDING LITIGATION. (a) After the special commissioners have made an award in a condemnation proceeding, except as provided by Subsection (c) of this section, the condemnor may take possession of the condemned property pending the results of further litigation if the condemnor:

(1) pays to the property owner the amount of damages and costs awarded by the special commissioners or deposits that amount of money with the court subject to the order of the property owner;

(2) deposits with the court either the amount of money awarded by the special commissioners as damages or a

surety bond in the same amount issued by a surety company qualified to do business in this state, conditioned to secure the payment of an award of damages by the court in excess of the award of the special commissioners; and

(3) executes a bond that has two or more good and solvent sureties approved by the judge of the court in which the proceeding is pending and conditioned to secure the payment of additional costs that may be awarded to the property owner by the trial court or on appeal.

(b) A court shall hold money or a bond deposited under Subdivision (1) or (2) of Subsection (a) to secure the payment of the damages that have been or that may be awarded against the condemnor.

(c) This state, a county, or a municipal corporation or an irrigation, water improvement, or water power control district created under legal authority is not required to deposit a bond or the amount equal to the award of damages under Subdivisions (2) and (3) of Subsection (a).

(d) If a condemnor deposits money with a court under Subdivision (2) of Subsection (a), the condemnor may instruct the court to deposit or invest the money in any account with or certificate or security issued by a state or national bank in this state. The court shall pay the interest that accrues from the deposit or investment to the condemnor.

Acts 1983, 68th Leg., p. 3502, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 18, Sec. 1(b), eff. Oct. 2, 1984.

Sec. 21.0211. PAYMENT OF AD VALOREM TAXES. (a) A court may not authorize withdrawal of any money deposited under Section [21.021](#) unless the petitioner for the money files with the court:

(1) a tax certificate issued under Section [31.08](#), Tax Code, by the tax collector for each taxing unit that imposes ad valorem taxes on the condemned property showing that there are no delinquent taxes, penalties, interest, or costs owing on the condemned property or on any larger tract of which the

condemned property forms a part; and

(2) in the case of a whole taking that occurs after the date the ad valorem tax bill for taxes imposed by a taxing unit on the property is sent, a tax receipt issued under Section 31.075, Tax Code, by the tax collector of the taxing unit that imposes ad valorem taxes showing that the taxes on the condemned property for the current tax year, prorated under Section 26.11, Tax Code, have been paid.

(b) For purposes of Subsection (a)(2), a "case of a whole taking" means a case in which the location, size, and boundaries of the property assessed for ad valorem taxes are identical to that of the condemned property.

Added by Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 27, eff. September 1, 2005.

Sec. 21.022. AUTHORITY OF COURTS. Laws that formerly governed the performance of functions by county clerks and judges in eminent domain proceedings are applicable to the clerks and judges of district courts and county courts at law.

Acts 1983, 68th Leg., p. 3503, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.023. DISCLOSURE OF INFORMATION REQUIRED AT TIME OF ACQUISITION. An entity with eminent domain authority shall disclose in writing to the property owner, at the time of acquisition of the property through eminent domain, that:

(1) the owner or the owner's heirs, successors, or assigns may be entitled to:

(A) repurchase the property under Subchapter E;
or

(B) request from the entity certain information relating to the use of the property and any actual progress made toward that use; and

(2) the repurchase price is the price paid to the owner by the entity at the time the entity acquired the property through eminent domain.

Added by Acts 2003, 78th Leg., ch. 1307, Sec. 1, eff. Jan. 1, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 13, eff. September 1, 2011.

Sec. 21.025. PRODUCTION OF INFORMATION BY CERTAIN ENTITIES. (a) Notwithstanding any other law, an entity that is not subject to Chapter 552, Government Code, and is authorized by law to acquire private property through the use of eminent domain is required to produce information as provided by this section if the information is:

(1) requested by a person who owns property that is the subject of a proposed or existing eminent domain proceeding; and

(2) related to the taking of the person's private property by the entity through the use of eminent domain.

(b) An entity described by Subsection (a) is required under this section only to produce information relating to the condemnation of the specific property owned by the requestor as described in the request. A request under this section must contain sufficient details to allow the entity to identify the specific tract of land in relation to which the information is sought.

(c) The entity shall respond to a request in accordance with the Texas Rules of Civil Procedure as if the request was made in a matter pending before a state district court.

(d) Exceptions to disclosure provided by this chapter and the Texas Rules of Civil Procedure apply to the disclosure of information under this section.

(e) Jurisdiction to enforce the provisions of this section resides in:

(1) the court in which the condemnation was initiated; or

(2) if the condemnation proceeding has not been initiated:

(A) a court that would have jurisdiction over a proceeding to condemn the requestor's property; or

(B) a court with eminent domain jurisdiction in the county in which the entity has its principal place of business.

(f) If the entity refuses to produce information requested in accordance with this section and the court determines that the refusal violates this section, the court may award the requestor's reasonable attorney's fees incurred to compel the production of the information.

Added by Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 14, eff. September 1, 2011.

SUBCHAPTER C. DAMAGES AND COSTS

Sec. 21.041. EVIDENCE. As the basis for assessing actual damages to a property owner from a condemnation, the special commissioners shall admit evidence on:

- (1) the value of the property being condemned;
- (2) the injury to the property owner;
- (3) the benefit to the property owner's remaining property; and
- (4) the use of the property for the purpose of the condemnation.

Acts 1983, 68th Leg., p. 3504, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.042. ASSESSMENT OF DAMAGES. (a) The special commissioners shall assess damages in a condemnation proceeding according to the evidence presented at the hearing.

(b) If an entire tract or parcel of real property is condemned, the damage to the property owner is the local market value of the property at the time of the special commissioners' hearing.

(c) If a portion of a tract or parcel of real property is condemned, the special commissioners shall determine the damage to the property owner after estimating the extent of the injury and benefit to the property owner, including the effect of the condemnation on the value of the property owner's

remaining property.

(d) In estimating injury or benefit under Subsection (c), the special commissioners shall consider an injury or benefit that is peculiar to the property owner and that relates to the property owner's ownership, use, or enjoyment of the particular parcel of real property, including a material impairment of direct access on or off the remaining property that affects the market value of the remaining property, but they may not consider an injury or benefit that the property owner experiences in common with the general community, including circuitry of travel and diversion of traffic. In this subsection, "direct access" means ingress and egress on or off a public road, street, or highway at a location where the remaining property adjoins that road, street, or highway.

(e) If a portion of a tract or parcel of real property is condemned for the use, construction, operation, or maintenance of the state highway system or of a county toll project described by Chapter 284, Transportation Code, that is eligible for designation as part of the state highway system, or for the use, construction, development, operation, or maintenance of an improvement or project by a metropolitan rapid transit authority created before January 1, 1980, with a principal municipality having a population of less than 1.9 million and established under Chapter 451, Transportation Code, the special commissioners shall determine the damage to the property owner regardless of whether the property owner makes a claim for damages to the remaining property. In awarding compensation or assessing the damages, the special commissioners shall consider any special and direct benefits that arise from the highway improvement or the transit authority improvement or project that are peculiar to the property owner and that relate to the property owner's ownership, use, or enjoyment of the particular parcel of remaining real property.

(f) In awarding compensation or assessing damages for a condemnation by an institution of higher education, as defined by Section 61.003, Education Code, the special commissioners may not include in the compensation or damages any amount that compensates for, or is based on the present value of, an

exemption from ad valorem taxation applicable to the property before its condemnation.

(g) Notwithstanding Subsection (d), if a portion of a tract or parcel of real property that, for the then current tax year was appraised for ad valorem tax purposes under a law enacted under Section 1-d or 1-d-1, Article VIII, Texas Constitution, and is outside the municipal limits or the extraterritorial jurisdiction of a municipality with a population of 5,000 or more is condemned for state highway purposes, the special commissioners shall consider the loss of reasonable access to or from the remaining property in determining the damage to the property owner.

Acts 1983, 68th Leg., p. 3504, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 29, Sec. 1, eff. Oct. 2, 1984; Acts 1989, 71st Leg., ch. 734, Sec. 5, eff. June 15, 1989; Acts 1997, 75th Leg., ch. 165, Sec. 30.244, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 669, Sec. 117, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1266, Sec. 1.15, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.94, eff. June 14, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 15, eff. September 1, 2011.

Sec. 21.0421. ASSESSMENT OF DAMAGES: GROUNDWATER RIGHTS.

(a) In a condemnation proceeding initiated by a political subdivision under this chapter, the special commissioners or court shall admit evidence relating to the market value of groundwater rights as property apart from the land in addition to the local market value of the real property if:

(1) the political subdivision proposes to condemn the fee title of real property; and

(2) the special commissioners or court finds, based on evidence submitted at the hearing, that the real property may be used by the political subdivision to develop or use the rights to groundwater for a public purpose.

(b) The evidence submitted under Subsection (a) on the market value of the groundwater rights as property apart from the land shall be based on generally accepted appraisal methods and techniques, including the methods of appraisal under Subchapter A, Chapter 23, Tax Code.

(c) If the special commissioners or court finds that the real property may be used by the political subdivision to develop or use the rights to groundwater for a public purpose, the special commissioners or court may assess damages to the property owner based on:

(1) the local market value of the real property, excluding the value of the groundwater in place, at the time of the hearing; and

(2) the market value of the groundwater rights as property apart from the land at the time of the hearing.

(d) In assessing damages based on the market value of groundwater rights under Subsection (c)(2), the special commissioners or court shall consider:

(1) the amount of groundwater the political subdivision can reasonably be expected to produce from the property on an annual basis;

(2) the number of years the political subdivision can reasonably be expected to produce groundwater from the property;

(3) the quality of the groundwater;

(4) the location of the real property in relation to the political subdivision for conveyance purposes;

(5) any potential environmental impact of producing groundwater from the real property;

(6) whether or not the real property is located within the boundaries of a political subdivision that can regulate the production of groundwater from the real property;

(7) the cost of alternative water supplies to the political subdivision; and

(8) any other reasonable factor that affects the market value of a groundwater right.

(e) This section does not:

(1) authorize groundwater rights appraised separately

from the real property under this section to be appraised separately from real property for property tax appraisal purposes; or

(2) subject real property condemned for the purpose described by Subsection (a) to an additional tax as provided by Section 23.46 or 23.55, Tax Code.

Added by Acts 2003, 78th Leg., ch. 1032, Sec. 2, eff. Sept. 1, 2003.

Sec. 21.043. DISPLACEMENT FROM DWELLING OR PLACE OF BUSINESS. (a) A property owner who is permanently physically displaced from the property owner's dwelling or place of business and who is not entitled to reimbursement for moving expenses under another law may recover, in addition to the property owner's other damages, the reasonable expenses of moving the property owner's personal property from the dwelling or place of business.

(b) A recovery under this section may not exceed the market value of the property being moved. The maximum distance of movement to be considered is 50 miles.

Acts 1983, 68th Leg., p. 3504, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.044. DAMAGES FROM TEMPORARY POSSESSION. (a) If a court finally determines that a condemnor who has taken possession of property pending litigation did not have the right to condemn the property, the court may award to the property owner the damages that resulted from the temporary possession.

(b) The court may order the payment of damages awarded under this section from the award or other money deposited with the court. However, if the award paid to or appropriated by the property owner exceeds the court's final determination of the value of the property, the court shall order the property owner to return the excess to the condemnor.

Acts 1983, 68th Leg., p. 3505, ch. 576, Sec. 1, eff. Jan. 1,

1984.

Sec. 21.045. TITLE ACQUIRED. Except where otherwise expressly provided by law, the interest acquired by a condemnor under this chapter does not include the fee simple title to real property, either public or private. An interest acquired by a condemnor is not lost by the forfeiture or expiration of the condemnor's charter and is subject to an extension of the charter or the grant of a new charter without a new condemnation.

Acts 1983, 68th Leg., p. 3505, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.046. RELOCATION ASSISTANCE PROGRAM. (a) A department, agency, instrumentality, or political subdivision of this state shall provide a relocation advisory service for an individual, a family, a business concern, a farming or ranching operation, or a nonprofit organization that is compatible with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C.A. 4601, et seq.

(b) This state or a political subdivision of this state shall, as a cost of acquiring real property, pay moving expenses and rental supplements, make relocation payments, provide financial assistance to acquire replacement housing, and compensate for expenses incidental to the transfer of the property if an individual, a family, the personal property of a business, a farming or ranching operation, or a nonprofit organization is displaced in connection with the acquisition.

(c) A department, agency, instrumentality, or political subdivision of this state that initiates a program under Subsection (b) shall adopt rules relating to the administration of the program.

(d) Neither this state nor a political subdivision of this state may authorize expenditures under Subsection (b) that exceed payments authorized under the Federal Uniform Relocation Assistance and Real Property Acquisition Policies

Act of 1970, 42 U.S.C.A. 4601, et seq.

(e) If a person moves or discontinues the person's business, moves personal property, or moves from the person's dwelling as a direct result of code enforcement, rehabilitation, or a demolition program, the person is considered to be displaced because of the acquisition of real property.

Acts 1983, 68th Leg., p. 3505, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 16, eff. September 1, 2011.

Sec. 21.047. ASSESSMENT OF COSTS AND FEES. (a) Special commissioners may adjudge the costs of an eminent domain proceeding against any party. If the commissioners award greater damages than the condemnor offered to pay before the proceedings began or if the decision of the commissioners is appealed and a court awards greater damages than the commissioners awarded, the condemnor shall pay all costs. If the commissioners' award or the court's determination of the damages is less than or equal to the amount the condemnor offered before proceedings began, the property owner shall pay the costs.

(b) A condemnor shall pay the initial cost of serving a property owner with notice of a condemnation proceeding. If the property owner is ordered to pay the costs of the proceeding, the condemnor may recover the expense of notice from the property owner as part of the costs.

(c) A court that has jurisdiction of an eminent domain proceeding may tax \$10 or more as a reasonable fee for each special commissioner as part of the court costs of the proceeding.

(d) If a court hearing a suit under this chapter determines that a condemnor did not make a bona fide offer to acquire the property from the property owner voluntarily as required by Section 21.0113, the court shall abate the suit,

order the condemnor to make a bona fide offer, and order the condemnor to pay:

- (1) all costs as provided by Subsection (a); and
- (2) any reasonable attorney's fees and other professional fees incurred by the property owner that are directly related to the violation.

Acts 1983, 68th Leg., p. 3506, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 17, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 18, eff. September 1, 2011.

Sec. 21.048. STATEMENT OF DAMAGES AND COSTS. After the special commissioners in an eminent domain proceeding have assessed the damages, they shall:

- (1) make a written statement of their decision stating the damages, date it, sign it, and file it and all other papers connected with the proceeding with the court on the day the decision is made or on the next working day after the day the decision is made; and

- (2) make and sign a written statement of the accrued costs of the proceeding, naming the party against whom the costs are adjudged, and file the statement with the court.

Acts 1983, 68th Leg., p. 3507, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 18, Sec. 1(c), eff. Oct. 2, 1984.

Sec. 21.049. NOTICE OF DECISION OF SPECIAL COMMISSIONERS.

The judge of a court hearing a proceeding under this chapter shall inform the clerk of the court as to a decision by the special commissioners on the day the decision is filed or on the next working day after the day the decision is filed. Not later than the next working day after the day the decision is filed, the clerk shall send notice of the decision by certified or registered United States mail, return receipt requested, to

the parties in the proceeding, or to their attorneys of record, at their addresses of record.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 18, Sec. 1(d), eff. Oct. 2, 1984.

SUBCHAPTER D. JUDGMENT

Sec. 21.061. JUDGMENT ON COMMISSIONERS' FINDINGS. If no party in a condemnation proceeding files timely objections to the findings of the special commissioners, the judge of the court that has jurisdiction of the proceeding shall adopt the commissioners' findings as the judgment of the court, record the judgment in the minutes of the court, and issue the process necessary to enforce the judgment.

Acts 1983, 68th Leg., p. 3507, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.062. WRIT OF POSSESSION. If a condemnor in a condemnation proceeding has taken possession of property pending litigation and the court finally decides that the condemnor does not have the right to condemn the property, the court shall order the condemnor to surrender possession of the property and issue a writ of possession to the property owner.

Acts 1983, 68th Leg., p. 3507, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.063. APPEAL. (a) The appeal of a judgment in a condemnation proceeding is as in other civil cases.

(b) A court hearing an appeal from the decision of a trial court in a condemnation proceeding may not suspend the judgment of the trial court pending the appeal.

Acts 1983, 68th Leg., p. 3507, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.064. INJUNCTIVE RELIEF. (a) A court hearing a suit covered by Section [21.003](#) of this code may grant

injunctive relief under the rules of equity.

(b) Instead of granting an injunction under this section, a court may require a condemnor to provide security adequate to compensate the property owner for damages that might result from the condemnation.

Acts 1983, 68th Leg., p. 3508, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.065. VESTED INTEREST. A judgment of a court under this chapter vests a right granted to a condemnor.

Acts 1983, 68th Leg., p. 3508, ch. 576, Sec. 1, eff. Jan. 1, 1984.

SUBCHAPTER E. REPURCHASE OF REAL PROPERTY FROM CONDEMNING ENTITY

Sec. 21.101. RIGHT OF REPURCHASE. (a) A person from whom a real property interest is acquired by an entity through eminent domain for a public use, or that person's heirs, successors, or assigns, is entitled to repurchase the property as provided by this subchapter if:

(1) the public use for which the property was acquired through eminent domain is canceled before the property is used for that public use;

(2) no actual progress is made toward the public use for which the property was acquired between the date of acquisition and the 10th anniversary of that date; or

(3) the property becomes unnecessary for the public use for which the property was acquired, or a substantially similar public use, before the 10th anniversary of the date of acquisition.

(b) In this section, "actual progress" means the completion of two or more of the following actions:

(1) the performance of a significant amount of labor to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

(2) the provision of a significant amount of materials to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

(3) the hiring of and performance of a significant amount of work by an architect, engineer, or surveyor to prepare a plan or plat that includes the property or other property acquired for the same public use project for which the property owner's property was acquired;

(4) application for state or federal funds to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

(5) application for a state or federal permit to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

(6) the acquisition of a tract or parcel of real property adjacent to the property for the same public use project for which the owner's property was acquired; or

(7) for a governmental entity, the adoption by a majority of the entity's governing body at a public hearing of a development plan for a public use project that indicates that the entity will not complete more than one action described by Subdivisions (1)-(6) before the 10th anniversary of the date of acquisition of the property.

(c) A district court may determine all issues in any suit regarding the repurchase of a real property interest acquired through eminent domain by the former property owner or the owner's heirs, successors, or assigns.

Added by Acts 2003, 78th Leg., ch. 1307, Sec. 2, eff. Jan. 1, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 19, eff. September 1, 2011.

Sec. 21.102. NOTICE TO PREVIOUS PROPERTY OWNER REQUIRED.

Not later than the 180th day after the date an entity that acquired a real property interest through eminent domain determines that the former property owner is entitled to repurchase the property under Section 21.101, the entity shall send by certified mail, return receipt requested, to the property owner or the owner's heirs, successors, or assigns a notice containing:

- (1) an identification, which is not required to be a legal description, of the property that was acquired;
- (2) an identification of the public use for which the property had been acquired and a statement that:
 - (A) the public use was canceled before the property was used for the public use;
 - (B) no actual progress was made toward the public use; or
 - (C) the property became unnecessary for the public use, or a substantially similar public use, before the 10th anniversary of the date of acquisition; and
- (3) a description of the person's right under this subchapter to repurchase the property.

Added by Acts 2003, 78th Leg., ch. 1307, Sec. 2, eff. Jan. 1, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 19, eff. September 1, 2011.

Sec. 21.1021. REQUESTS FOR INFORMATION REGARDING CONDEMNED PROPERTY. (a) On or after the 10th anniversary of the date on which real property was acquired by an entity through eminent domain, a property owner or the owner's heirs, successors, or assigns may request that the condemning entity make a determination and provide a statement and other relevant information regarding:

- (1) whether the public use for which the property was acquired was canceled before the property was used for the public use;
- (2) whether any actual progress was made toward the

public use between the date of acquisition and the 10th anniversary of that date, including an itemized description of the progress made, if applicable; and

(3) whether the property became unnecessary for the public use, or a substantially similar public use, before the 10th anniversary of the date of acquisition.

(b) A request under this section must contain sufficient detail to allow the entity to identify the specific tract of land in relation to which the information is sought.

(c) Not later than the 90th day following the date of receipt of the request for information, the entity shall send a written response by certified mail, return receipt requested, to the requestor.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 19, eff. September 1, 2011.

Sec. 21.1022. LIMITATIONS PERIOD FOR REPURCHASE RIGHT. Notwithstanding Section 21.103, the right to repurchase provided by this subchapter is extinguished on the first anniversary of the expiration of the period for an entity to provide notice under Section 21.102 if the entity:

(1) is required to provide notice under Section 21.102;

(2) makes a good faith effort to locate and provide notice to each person entitled to notice before the expiration of the deadline for providing notice under that section; and

(3) does not receive a response to any notice provided under that section in the period for response prescribed by Section 21.103.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 19, eff. September 1, 2011.

Sec. 21.103. RESALE OF PROPERTY; PRICE. (a) Not later than the 180th day after the date of the postmark on a notice sent under Section 21.102 or a response to a request made under

Section 21.1021 that indicates that the property owner, or the owner's heirs, successors, or assigns, is entitled to repurchase the property interest in accordance with Section 21.101, the property owner or the owner's heirs, successors, or assigns must notify the entity of the person's intent to repurchase the property interest under this subchapter.

(b) As soon as practicable after receipt of a notice of intent to repurchase under Subsection (a), the entity shall offer to sell the property interest to the person for the price paid to the owner by the entity at the time the entity acquired the property through eminent domain. The person's right to repurchase the property expires on the 90th day after the date on which the entity makes the offer.

Added by Acts 2003, 78th Leg., ch. 1307, Sec. 2, eff. Jan. 1, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 19, eff. September 1, 2011.