
SENATE BILL No. 421

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-22.6-10; IC 32-24-1.

Synopsis: Eminent domain involving religious organizations. Provides that before a condemnor may exercise the power of eminent domain to acquire real property that is owned by a religious organization, the condemnor must: (1) establish a proposed purchase price for the real property that is at least equal to the greater of the appraised fair market value of the real property or the appraised replacement value of the real property, including all buildings, structures, and other improvements on the real property; (2) provide the owner of the real property with the appraisals used to establish the proposed purchase price; and (3) conduct good faith negotiations with the owner of the real property. Makes conforming amendments.

Effective: July 1, 2011.

Hume, Alting

January 12, 2011, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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SENATE BILL No. 421



A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-1-22.6-10, AS ADDED BY P.L.110-2007,
- 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2011]: Sec. 10. (a) The pipeline company shall provide the
- 4 division with a list of landowners that will be affected by the proposed
- 5 construction of a pipeline or a segment of a pipeline in Indiana. The list
- 6 must include all affected landowners that the pipeline company must
- 7 provide notice to under ~~IC 32-24-1-3(g)~~; **IC 32-24-1-3(h)**.
- 8 (b) The division shall send, by certified mail, the following to each
- 9 affected landowner:
 - 10 (1) A copy of, or reference to, the guidelines adopted by the
 - 11 division.
 - 12 (2) A notice that includes the following:
 - 13 (A) A statement that the division has adopted the pipeline
 - 14 construction guidelines included with, or referenced in, the
 - 15 notice.
 - 16 (B) A statement indicating that the pipeline construction
 - 17 guidelines have been mailed to the pipeline company. The



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statement required by this clause must specify a date after which the affected landowner may contact a toll free telephone number established by the division to provide information on the status of any construction guidelines agreed to by the pipeline company.

(C) A statement indicating that any guidelines agreed to by the pipeline company shall not be binding on the pipeline company or affected landowners but may be used by the pipeline company and an individual landowner to simplify negotiations involved in establishing a price for any:

- (i) easement; or
- (ii) other interest in land;

needed by the pipeline company to construct the pipeline.

(D) A statement encouraging the affected landowner to agree to any construction guidelines that the pipeline company agrees to follow, to the extent that the landowner determines that the guidelines are not contrary to the landowner's best interests.

(E) A statement including:

- (i) contact information for the one (1) or more project coordinators designated by the division under section 12 of this chapter;
- (ii) contact information for the Federal Energy Regulatory Commission, including a local or toll free telephone number; and
- (iii) the commission's web site address.

(c) The division shall mail the information required under subsection (b) not later than twenty (20) days after the division is notified by the pipeline company of the proposed route and is provided with a list of the affected landowners as required by subsection (a).

SECTION 2. IC 32-24-1-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 2.5. As used in this chapter, "religious organization" means an organization, a church, a body of communicants, or a group:**

- (1) organized primarily for religious purposes and not for pecuniary profit; and**
- (2) that operates under:**
 - (A) Section 501 of the Internal Revenue Code; or**
 - (B) the Section 501 nonprofit status of the parent organization of the organization, church, body of communicants, or group.**

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1 SECTION 3. IC 32-24-1-3, AS AMENDED BY P.L.110-2007,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 3. (a) Any person that may exercise the power of
4 eminent domain for any public use under any statute may exercise the
5 power only in the manner provided in this article, except as otherwise
6 provided by law.

7 (b) Except as provided in subsection ~~(g)~~; **(h)**, before proceeding to
8 condemn, the person:

9 (1) may enter upon any land to examine and survey the property
10 sought to be acquired; and

11 (2) must make an effort to purchase for the use intended the land,
12 right-of-way, easement, or other interest, in the property.

13 **(c) Except as provided in subsection (d), the effort to purchase**
14 **under subsection (b)(2) must include the following:**

15 (1) Establishing a proposed purchase price for the property.

16 (2) Providing the owner of the property with an appraisal or other
17 evidence used to establish the proposed purchase price.

18 (3) Conducting good faith negotiations with the owner of the
19 property.

20 **(d) The effort to purchase real property under subsection (b)(2)**
21 **that is owned by a religious organization must include the**
22 **following:**

23 **(1) Establishing a proposed purchase price for the real**
24 **property that is at least equal to the greater of the following:**

25 **(A) The appraised fair market value of the real property.**

26 **(B) The appraised replacement value of the real property,**
27 **including all buildings, structures, and other**
28 **improvements on the real property.**

29 **(2) Providing the owner of the real property with the**
30 **appraisals used to establish the proposed purchase price.**

31 **(3) Conducting good faith negotiations with the owner of the**
32 **real property.**

33 ~~(d)~~ **(e)** If the land or interest in the land, or property or right is
34 owned by a person who is an incapacitated person (as defined in
35 IC 29-3-1-7.5) or less than eighteen (18) years of age, the person
36 seeking to acquire the property may purchase the property from the
37 guardian of the incapacitated person or person less than eighteen (18)
38 years of age. If the purchase is approved by the court appointing the
39 guardian and the approval is written upon the face of the deed, the
40 conveyance of the property purchased and the deed made and approved
41 by the court are valid and binding upon the incapacitated person or
42 persons less than eighteen (18) years of age.

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1 ~~(e)~~ (f) The deed given, when executed instead of condemnation,
 2 conveys only the interest stated in the deed.
 3 ~~(f)~~ (g) If property is taken by proceedings under this article, the
 4 entire fee simple title may be taken and acquired.
 5 ~~(g)~~ (h) This subsection applies to a public utility (as defined in
 6 IC 32-24-1-5.9(a)) or a pipeline company (as defined in IC 8-1-22.6-7).
 7 If a public utility or a pipeline company seeks to acquire land or an
 8 interest in land under this article, the public utility or pipeline company
 9 may not enter upon the land to examine or survey the property sought
 10 to be acquired unless either of the following occur:
 11 (1) The public utility or the pipeline company sends notice by
 12 certified mail to the affected landowner (as defined in
 13 IC 8-1-22.6-2) of the public utility's or the pipeline company's
 14 intention to enter upon the landowner's property for survey
 15 purposes. The notice required by this subdivision must be mailed
 16 not later than fourteen (14) days before the date of the public
 17 utility's or the pipeline company's proposed examination or
 18 survey.
 19 (2) The public utility or the pipeline company receives the
 20 landowner's signed consent to enter the property to perform the
 21 proposed examination or survey.
 22 An affected landowner may bring an action to enforce this subsection
 23 in the circuit court of the county in which the landowner's property is
 24 located. A prevailing landowner is entitled to the landowner's actual
 25 damages as a result of the public utility's or the pipeline company's
 26 violation. In addition, the court may award a prevailing landowner
 27 reasonable costs of the action and attorney's fees.

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