

SENATE BILL No. 423

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-24-1-3.

Synopsis: Eminent domain. Provides that before a condemnor may exercise the power of eminent domain to acquire property or an interest in property, the condemnor must: (1) establish a proposed purchase price for the property that is at least equal to the appraised value of the property; and (2) provide the owner of the property with the appraisal used to establish the proposed purchase price.

Effective: July 1, 2011.

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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. 423



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 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), 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) The effort to purchase under subsection (b)(2) must include the
- 14 following:
- 15 (1) Establishing a proposed purchase price for the property **that**
- 16 **is at least equal to the appraised value of the property.**
- 17 (2) Providing the owner of the property with ~~an~~ **the** appraisal ~~or~~



1 ~~other evidence~~ used to establish the proposed purchase price.
2 (3) Conducting good faith negotiations with the owner of the
3 property.
4 (d) If the land or interest in the land, or property or right is owned
5 by a person who is an incapacitated person (as defined in
6 IC 29-3-1-7.5) or less than eighteen (18) years of age, the person
7 seeking to acquire the property may purchase the property from the
8 guardian of the incapacitated person or person less than eighteen (18)
9 years of age. If the purchase is approved by the court appointing the
10 guardian and the approval is written upon the face of the deed, the
11 conveyance of the property purchased and the deed made and approved
12 by the court are valid and binding upon the incapacitated person or
13 persons less than eighteen (18) years of age.
14 (e) The deed given, when executed instead of condemnation,
15 conveys only the interest stated in the deed.
16 (f) If property is taken by proceedings under this article, the entire
17 fee simple title may be taken and acquired.
18 (g) This subsection applies to a public utility (as defined in
19 IC 32-24-1-5.9(a)) or a pipeline company (as defined in IC 8-1-22.6-7).
20 If a public utility or a pipeline company seeks to acquire land or an
21 interest in land under this article, the public utility or pipeline company
22 may not enter upon the land to examine or survey the property sought
23 to be acquired unless either of the following occur:
24 (1) The public utility or the pipeline company sends notice by
25 certified mail to the affected landowner (as defined in
26 IC 8-1-22.6-2) of the public utility's or the pipeline company's
27 intention to enter upon the landowner's property for survey
28 purposes. The notice required by this subdivision must be mailed
29 not later than fourteen (14) days before the date of the public
30 utility's or the pipeline company's proposed examination or
31 survey.
32 (2) The public utility or the pipeline company receives the
33 landowner's signed consent to enter the property to perform the
34 proposed examination or survey.
35 An affected landowner may bring an action to enforce this subsection
36 in the circuit court of the county in which the landowner's property is
37 located. A prevailing landowner is entitled to the landowner's actual
38 damages as a result of the public utility's or the pipeline company's
39 violation. In addition, the court may award a prevailing landowner
40 reasonable costs of the action and attorney's fees.

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