

SENATE BILL NO. 424

BY SENATOR WHITE

1 AN ACT

2 To enact Part XI of Title 19 of the Louisiana Revised Statutes of 1950, to be comprised of
3 R.S. 19:371 through 381, relative to expropriation of property; to authorize the city
4 of Central, in East Baton Rouge Parish to expropriate by a declaration of taking; to
5 define terms; to provide for procedures; to provide for purposes of the expropriation;
6 to provide for an effective date; and to provide for related matters.

7 Notice of intention to introduce this Act has been published.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part XI of Title 19 of the Louisiana Revised Statutes of 1950, comprised
10 of R.S. 19:371 through 381, is hereby enacted to read as follows:

11 **PART XI. EXPROPRIATION BY A DECLARATION OF TAKING**

12 **BY THE CITY OF CENTRAL**

13 **§371. Definitions**

14 **As used in this Part, the following terms shall mean:**

15 **(1) "Governing authority" means the city council for the city of Central.**

16 **(2) "Property" means any portion of immovable property, including**
17 **corporeal property, servitudes, rights-of-way, and other rights in or to**
18 **immovable property located within the corporate limits of the city of Central.**

19 **§372. Authority to expropriate property for drainage maintenance or**
20 **improvements prior to judgment**

21 **When the governing authority cannot amicably acquire property needed**
22 **for current or future drainage maintenance or improvements, including but not**
23 **limited to access to such improvements, it may acquire such property by**
24 **expropriation and may acquire the property prior to judgment in the trial court**

1 fixing the amount of compensation due to the property owner in the manner set
2 forth in this Part.

3 §373. Appointment of appraisers

4 A. The governing authority shall select one or more appraisers licensed
5 pursuant to the Louisiana Real Estate Appraisers Law to estimate just
6 compensation to be paid to the property owners except when the estimate is
7 expected to exceed thirty thousand dollars in which case two or more appraisers
8 shall be selected. When the governing authority cannot amicably acquire clear
9 title to property solely for reasons unrelated to the amount of just compensation
10 to be paid, such as unopened successions, absentee defendants, or partial
11 interests, one person shall be selected to make the estimate regardless of the
12 amount. The appraiser performing the estimate shall be familiar with land
13 values in the vicinity of the property and shall conduct the appraisal in
14 accordance with real estate appraisal guidelines.

15 B. Prior to filing a petition for expropriation, the governing authority
16 shall provide to each owner the following information with respect to each
17 estimate of the loss:

18 (1) The name, address, and qualifications of the person or persons
19 preparing the estimate.

20 (2) A copy of the estimate prepared by each appraiser including a
21 description of the methodology used in the estimate.

22 §374. Contents of petition for expropriation; place of filing

23 The authority to expropriate granted by this Part shall be exercised in
24 the following manner:

25 (1) The governing authority shall file a petition in the Nineteenth Judicial
26 District Court.

27 (2) The petition shall contain a statement of the purpose for which the
28 property is to be expropriated, a description of the property to be expropriated,
29 a description of any improvements, the reason the governing authority could
30 not amicably acquire clear title, and the name of each owner shown on the

1 conveyance records for East Baton Rouge Parish.

2 (3) The petition shall have annexed thereto the following:

3 (a) A certified copy of a resolution of the governing authority authorizing
4 the expropriation and declaring the public purpose authorized by this Part.

5 (b) A certificate signed by the city engineer declaring the proposed
6 maintenance or improvement is in the interest of the safety and protection of
7 citizens of the city of Central.

8 (c) A certificate signed by the director of public works declaring whether
9 any buildings or improvements are located wholly or partially upon the
10 property described in the petition.

11 (d) An itemized statement of the amount of the estimate of the loss for
12 the expropriation or the damage, or both, the methodology used in the estimate
13 and all information required by this Part relative to the estimate, signed by the
14 estimator, showing the capacity in which they acted, and the date on which the
15 estimate was made.

16 (4) The petition shall conclude with a prayer that the property be
17 transferred to the governing authority for drainage maintenance or
18 improvements.

19 §375. Ex parte order for deposit; vesting of title

20 A. Upon presentation of the petition, the court shall issue an order
21 directing the amount of the estimate be deposited in the registry of the court
22 and declaring the property described in the petition transferred to the
23 governing authority for drainage maintenance or improvements at the time of
24 deposit. Upon the deposit of the estimate in the registry of the court for the
25 benefit of the property owners, the clerk of court shall issue a receipt showing
26 the amount deposited, the date of the deposit, suit caption, and the description
27 of the property described in the petition.

28 B.(1) Upon the governing authority depositing the amount ordered by
29 the court, title to the property specified in the petition shall vest in the
30 governing authority, and the right to just and adequate compensation therefor

1 shall vest in the property owners. Upon vesting of title, the governing authority
2 may enter upon and take possession of the property if there are no inhabited
3 improvements located upon the expropriated property.

4 (2) If any inhabited improvement is located wholly or partially upon the
5 property expropriated, the court may postpone the right of entry for up to
6 thirty calendar days from the date on which the last defendant was served with
7 the notice; however, the governing authority may request the court to order
8 possession surrendered after a longer delay upon the court fixing a reasonable
9 rental to be paid to the governing authority by a defendant in possession of the
10 property for each day the defendant remains in possession after the withdrawal
11 of any part of the deposited funds.

12 §376. Notice to property owners

13 Upon receipt of the deposit, certified copies of the petition, judgment,
14 and the receipt for the deposit shall be served upon each property owner.

15 §377. Withdrawal of deposit

16 Upon the application of any property owner, and upon due notice to the
17 governing authority and all other property owners and lienholders, the court
18 may order the money deposited, or any part thereof, be paid forthwith to the
19 person entitled thereto for or on account of the just and adequate compensation
20 to be awarded in the proceedings. The court shall order the payments of taxes,
21 encumbrances, and other charges out of the deposit.

22 §378. Contesting validity of taking; waiver of defenses

23 A. Any defendant may contest the validity of an expropriation on the
24 grounds the property was not expropriated for an authorized purpose or the
25 petition and attached exhibits do not comply with this Part by filing a motion
26 to dismiss the petition within twenty days after the date of service on the
27 defendant. The motion to dismiss shall be tried contradictorily by the assigned
28 judge, with preference to other civil proceedings, and shall be decided prior to
29 fixing the case for trial.

30 B. Failure to file a motion to dismiss within the time provided or to serve

1 a copy thereof on the governing authority constitutes a waiver of all defenses to
2 the expropriation except claims for compensation.

3 §379. Answer; delay for filing

4 A. Where an entire lot, block, or tract of land is expropriated, any
5 defendant may apply for a trial to determine the measure of compensation by:

6 (1) Filing an answer within ninety days from the date of service of the
7 petition setting forth the amount claimed, including all of the following:

8 (a) The value of each parcel expropriated and the amount of damages to
9 the remainder of the property, if any.

10 (b) A reasonable itemization of the damages claimed, if any.

11 B. Where a portion of a lot, block, or tract of land is expropriated, any
12 defendant may apply for a trial to determine the measure of compensation by:

13 (1) Filing an answer within one year from the date of service of the
14 petition setting forth the amount claimed, including all of the following:

15 (a) The value of each parcel expropriated and the amount claimed as
16 damages to the remainder of his property, if any.

17 (b) A reasonable itemization of the damages claimed, if any.

18 §380. Fixing for trial; notice

19 After answer is filed, if no motion to dismiss is filed pursuant to this Part,
20 either party may, upon ex parte motion, request that the matter be set for trial.
21 The court shall fix the time for the trial not more than sixty days after the filing
22 of the motion to dismiss. The trial shall be conducted with preference to other
23 civil proceedings, and shall be decided expeditiously. Notice of trial shall be
24 served on all parties at least thirty days before the time fixed for the trial.

25 §381. Grant as additional authority

26 The right to take possession and title in advance of final judgment,
27 provided herein, is in addition to any right or authority conferred by the laws
28 of this state under which expropriation proceedings may be conducted by
29 municipalities, and shall not be construed as abrogating, eliminating, or
30 modifying any such right or authority.

1 Section 2. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____