

2024 Regular Session

HOUSE BILL NO. 625

BY REPRESENTATIVE LYONS

PROPERTY/RIGHTS: Limits certain actions taken by governmental entities on private property owners

1 AN ACT

2 To enact Chapter 2 of Code Title II, of Book II of Title 9 of the Louisiana Revised Statutes  
3 of 1950, to be comprised of R.S. 1171 through 1180, relative to immovable property;  
4 to provide relative to rights of ownership of immovable property; to provide  
5 definitions; to provide for procedures; to provide compensation and settlement  
6 agreements; to provide for prescription; to create a Property Owner Bill of Rights;  
7 and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 2 of Code Title II of Book II of Title 9 of the Louisiana Revised  
10 Statutes of 1950, to be comprised of R.S. 1171 through 1180 is hereby enacted to read as  
11 follows:

12 CHAPTER 2. PRIVATE OWNERSHIP PROTECTION

13 §1171. Purpose

14 The Legislature of Louisiana recognizes that laws, regulations, and  
15 ordinances of the state and its political entities may inordinately burden, restrict, or  
16 limit private property rights without being considered a taking under the Constitution  
17 or the United States Constitution. The legislature also recognizes there is an  
18 important state interest in protecting a private property owner from inordinate  
19 burdens. It is the intent of the legislature by this Chapter to provide methods for  
20 relief or compensation when new laws, regulations, or ordinances of the state or a  
21 political entity in the state adversely affects an individual's right to real property.

1        §1172. Goals

2                When a specific action of a governmental entity has inordinately burdened  
3                an existing use of real property or a vested right to a specific use of real property, the  
4                property owner is entitled to relief which may include compensation for the actual  
5                loss to the fair market value of the real property caused by the action of government  
6                as provided in this Section. A property owner entitled to relief under this Chapter  
7                has a right to pursue the claim if the property owner filed a claim pursuant to R.S.  
8                9:1174 and subsequently relinquishes title to the real property before the claim  
9                reaches a final resolution.

10       §1173. Definitions

11                For purposes of this Chapter:

12                (1) "Vested rights" are determined by applying the principles of equitable  
13                estoppel or substantive due process under common law or the laws of this state.

14                (2) "Existing use" shall mean:

15                (a) Activity on the real property including periods of inactivity which are  
16                normally associated or incidental to the nature or type of use.

17                (b) Foreseeable land uses of the real property compatible with adjacent land  
18                uses which have created an existing fair market value in the property greater than the  
19                fair market value of the present use or activity on the real property.

20                (3) "Governmental entity" means the state or any political subdivision, local  
21                government, or municipality. This does not include any federal agencies.

22                (4) "Action of a governmental entity" means specific action of a  
23                governmental entity which affects real property including action on an application  
24                or a permit, or adopting or enforcing any ordinance, resolution, regulation, rule, or  
25                policy.

26                (5) "Inordinate burden" means:

27                (a) Action of one or more governmental entities directly restricting or  
28                limiting the property owner's use of real property which causes the property owner  
29                to be permanently unable to attain the reasonable investment-backed expectation for

1 the existing use of the real property or a vested right to a specific use of the real  
2 property with respect to the real property as a whole, or that the property owner is  
3 left with existing or vested uses that are unreasonable that the property owner bears  
4 permanently a disproportionate share of a burden imposed for the good of the public.

5 (b) Temporary impacts to real property occasioned by governmental  
6 abatement, prohibition, prevention, or remediation of a public nuisance at common  
7 law or a noxious use of private property are not included in this definition. However,  
8 a temporary impact on development that is in effect for longer than one year may  
9 constitute an "inordinate burden" as provided in this Section.

10 (c) To determine whether reasonable investment-backed expectations are  
11 inordinately burdened, consideration may be given to the factual circumstances  
12 leading to the time elapsed between enactment of the law or regulation and its first  
13 application to the subject property.

14 (6) "Property owner" means the person who holds legal title to the real  
15 property that is the subject of and directly impacted by the action of a governmental  
16 entity. The term does not include a governmental entity.

17 (7) "Real property" means land which includes any surface, subsurface,  
18 mineral estates, and any appurtenances or improvements to the land. The term  
19 includes only parcels that are the subject of and directly impacted by the action of  
20 a governmental entity.

21 §1174. Procedures

22 A. Within ninety days of governmental action inordinately burdening a  
23 property owner's rights, the property owner shall present the claim in writing to the  
24 head of the governmental entity before filing an action under this Section against a  
25 governmental entity. The property owner must submit along with the claim a written  
26 appraisal report supporting the claim and demonstrates the loss in fair market value  
27 to the real property.

28 B.(1) If the action of government is the culmination of a process that  
29 involves more than one governmental entity or if a resolution for all relevant issues

1 requires active participation of more than one governmental entity, the property  
2 owner shall present the claim as provided in Paragraph (B)(2) of this Section to each  
3 of the governmental entities.

4 (2) The property owner shall provide written notice of the claim to all parties  
5 to any administrative action that give rise to the claim and to owners of real property  
6 contiguous to the owner's property at the addresses listed on the most recent county  
7 tax rolls. Within fifteen days after the claim is presented, the governmental entity  
8 shall report the claim in writing to the Office of the Attorney General and shall  
9 provide the office with the name, address, and telephone number of the employee of  
10 the governmental entity from whom additional information may be obtained about  
11 the claim during the pendency of the claim and any subsequent judicial action.

12 C. During the ninety day notice period, unless extended by agreement of the  
13 parties, the governmental entity shall make a written settlement offer to effectuate  
14 all of the following:

15 (1) An adjustment of land development or permit standards or other  
16 provisions controlling the development or use of land.

17 (2) Increases or modifications in the density, intensity, or use of areas of  
18 development.

19 (3) The transfer of development rights.

20 (4) Land swaps or exchanges.

21 (5) Mitigation, including payments in lieu of onsite mitigation.

22 (6) Location on the least sensitive portion of the property.

23 (7) Conditioning the amount of development or use permitted.

24 (8) A requirement that issues be addressed on a more comprehensive basis  
25 than a single proposed use or development.

26 (9) Issuance of the development order, a variance, a special exception, or any  
27 other extraordinary relief.

28 (10) Purchase of the real property, or an interest therein, by an appropriate  
29 governmental entity or payment of compensation.

1           (11) No changes to the action of the governmental entity.

2           D. (1) If the property owner accepts a settlement offer before or after filing  
3 an action, the governmental entity may implement the settlement offer by  
4 appropriate development agreement by issuing a variance, special exception, or any  
5 other extraordinary relief or appropriate method pursuant to Paragraph D(2) of this  
6 Section.

7           (2) When a governmental entity enters into a settlement agreement under this  
8 Section which would have the effect of a modification, variance, or a special  
9 exception to the application of a rule, regulation, or ordinance as it would otherwise  
10 apply to the subject real property, the relief granted shall protect the public interest  
11 served by the regulations at issue and be the appropriate relief necessary to prevent  
12 the governmental regulatory effort from inordinately burdening the real property.  
13 Settlement offers made under this Section shall be presumed to protect the public  
14 interest.

15           E.(1) When a governmental entity enters into a settlement agreement under  
16 this Section which would have the effect of violating a statute as applied to the  
17 subject real property, the governmental entity and the property owner shall jointly  
18 file an action in circuit court where the real property is located for approval of the  
19 settlement agreement by the court to ensure that the relief granted protects the public  
20 interest served by the statute at issue and is the appropriate relief necessary to  
21 prevent the governmental regulatory effort from inordinately burdening the real  
22 property.

23           §1175. Settlement agreements; allowable uses

24           A. This Section applies to any settlement resolving all claims reached  
25 between a property owner and a governmental entity regardless of when the  
26 settlement agreement was entered.

27           B. During the ninety day notice period, unless a settlement offer is accepted  
28 by the property owner, each of the governmental entities provided notice under R.S.  
29 9:1174 shall issue a written statement identifying the allowable uses for the subject

1 property. Failure of the governmental entity to issue a statement of allowable uses  
2 during the ninety day period shall be deemed a denial for purposes of allowing a  
3 property owner to appeal the action under this Section. If a written statement of  
4 allowable uses is issued, it shall constitute the last prerequisite to judicial review for  
5 the purposes of the judicial proceeding created by this Section, notwithstanding the  
6 availability of other administrative remedies.

7 C. If the property owner rejects the settlement offer and the statement of  
8 allowable uses of the governmental entity or entities, the property owner may file a  
9 claim for compensation in court and shall serve the head of each of the governmental  
10 entity that made a settlement offer and a statement of allowable uses rejected by the  
11 property owner. Actions under this Section shall be brought only in the parish where  
12 the property is situated.

13 §1176. Adjudication; jury; appeals

14 A. The district court shall determine whether an existing use of the real  
15 property or a vested right to a specific use of the real property existed and whether  
16 considering the settlement offer and statement of allowable uses the governmental  
17 entity or entities have inordinately burdened the real property.

18 B.(1) If the actions of more than one governmental entity, considering any  
19 settlement offers and statement of allowable uses, are responsible for the action that  
20 imposed the inordinate burden on the real property of the property owner, the court  
21 shall determine the percentage of responsibility each such governmental entity bears  
22 with respect to the inordinate burden.

23 (2) A governmental entity may bring an interlocutory appeal of the court's  
24 determination that the action of the governmental entity has resulted in an inordinate  
25 burden. An interlocutory appeal does not automatically stay the proceedings.  
26 However, the court may stay the proceedings during the pendency of the  
27 interlocutory appeal. If the governmental entity does not prevail in the interlocutory  
28 appeal, the court shall award to the prevailing property owner the costs and a  
29 reasonable attorney fee incurred by the property owner in the interlocutory appeal.

1           C.(1) Following the district court's determination of the percentage of  
2           responsibility of each governmental entity and following the resolution of any  
3           interlocutory appeal, the court shall impanel a jury to determine the total amount of  
4           compensation to the property owner for the loss in value due to the inordinate burden  
5           to the real property.

6           (2) The property owner retains the option to forego a jury and elect to have  
7           the court determine the award of compensation. The award of compensation shall  
8           be determined by calculating the difference in the fair market value of the real  
9           property, as it existed at the time of the governmental action at issue, considering the  
10          property owner's ability to attain the reasonable investment-backed expectation and  
11          the fair market value of the real property, as it existed at the time of the  
12          governmental action at issue, as inordinately burdened, considering the settlement  
13          offer together with the statement of allowable uses, of the governmental entity or  
14          entities.

15          (3) In determining the award of compensation, consideration may not be  
16          given to business damages relative to any development, activity, or use that the  
17          action of the governmental entity or entities, considering the settlement offer  
18          together with the statement of allowable uses has restricted, limited, or prohibited.  
19          The award of compensation shall include a reasonable award of prejudgment interest  
20          from the date the claim was presented to the governmental entity or entities as  
21          provided in this Chapter.

22          §1177. Attorney fees and court costs

23                 A. In any action filed pursuant to R.S. 9:1176, the property owner is entitled  
24                 to recover reasonable costs and attorney fees incurred by the property owner from  
25                 the governmental entity or entities in accordance with their proportionate share as  
26                 determined by the court from the date of the presentation of the claim to the head of  
27                 the governmental entity under R.S. 9:1174 if the property owner prevails in the  
28                 action.

1           B. In any action filed pursuant to R.S. 9:1176, the governmental entity or  
2           entities are entitled to recover reasonable costs and attorney fees incurred by the  
3           governmental entity or entities from the date of the filing an action if the  
4           governmental entity or entities prevail in the action and the court determines that the  
5           property owner did not accept a bona fide settlement offer including the statement  
6           of allowable uses, which reasonably would have resolved the claim fairly to the  
7           property owner if the settlement offer had been accepted by the property owner,  
8           based upon the knowledge available to the governmental entity or entities and the  
9           property owner during the ninety day notice period.

10           C. The costs and reasonable attorney fees pursuant to this Section shall be  
11           determined by the court but not the jury. Any proposed settlement offer or any  
12           proposed decision, except for the final written settlement offer or the final written  
13           statement of allowable uses, and any negotiations or rejections in regard to the  
14           formulation either of the settlement offer or the statement of allowable uses, are  
15           inadmissible in the subsequent proceeding established by this Section except for the  
16           purposes of the determination pursuant to this Paragraph.

17           D. Within fifteen days after the execution of any settlement pursuant to R.S.  
18           9:1174 or the issuance of any judgment pursuant to this Section, the governmental  
19           entity shall provide a copy of the settlement or judgment to the Office of the  
20           Attorney General.

21           E. The district court may enter any orders necessary to effectuate the  
22           purposes of this Chapter and to make final determinations to effectuate relief  
23           available under this Chapter.

24           F. An award or payment of compensation pursuant to this Section shall  
25           operate to grant and vest in any governmental entity by whom compensation is paid  
26           the right, title, and interest in rights of use for which the compensation has been paid,  
27           which rights may become transferable development rights to be held, sold, or  
28           otherwise disposed of by the governmental entity. When there is an award of



1        compensation, the court shall determine the form and the recipient of the right, title,  
2        and interest, and terms of their acquisition.

3                G. This Section shall not supersede methods agreed to by the parties and  
4        lawfully available for arbitration, mediation, or other forms of alternative dispute  
5        resolution.

6        §1178. Exceptions

7                A. This Chapter provides a cause of action for governmental actions that  
8        may not rise to the level of a taking under the state constitution or the United States  
9        Constitution. The provisions of this Chapter are cumulative and do not abrogate any  
10       other remedy lawfully available including any remedy lawfully available for  
11       governmental actions that rise to the level of a taking. However, a governmental  
12       entity shall not be liable for compensation for an action of a governmental entity  
13       applicable to, or for the loss in value to, a subject real property more than once.

14               B. This Chapter does not apply to any actions taken by a governmental entity  
15       which relate to the operation, maintenance, or expansion of transportation facilities,  
16       and this section does not affect existing law regarding eminent domain relating to  
17       transportation.

18               C. This Chapter does not apply to any actions taken by a parish with respect  
19       to the adoption of a Flood Insurance Rate Map issued by the Federal Emergency  
20       Management Agency for the purpose of participating in the National Flood Insurance  
21       Program, unless such adoption incorrectly applies an aspect of the Flood Insurance  
22       Rate Map to the property in such a way as to incorrectly assess the elevation of the  
23       property.

24       §1179. Prescription

25               A. A cause of action under R.S. 9:1174 through R.S. 9:1177 prescribes one  
26       year after a law or regulation is first applied by the governmental entity to the  
27       property at issue.

28               B. For purposes of determining prescription all of the following shall be met:

- 29               (1) A law or regulation is first applied upon enactment.

1           (2) Notice is provided via mail after the enactment of the law or regulation  
2           to the affected property owners or registered agents at the address referenced in the  
3           jurisdiction's most current ad valorem tax records and informs them of the one year  
4           prescription. The notice must alert the property owner or registered agent that the law  
5           or regulation may impact the property owner's existing property rights.

6           C.(1) If the notice required pursuant to this Section and is not provided to the  
7           property owner, the property owner may notify the head of the governmental entity  
8           in writing via certified mail or email that the property owner deems the impact of the  
9           law or regulation on the property owner's real property to be clear and unequivocal  
10          in its terms and, as such, restrictive of uses allowed on the property before the  
11          enactment. Within forty-five days after receipt of a notice under this Section, the  
12          governmental entity in receipt of the notice must respond in writing via certified mail  
13          or email to describe the limitations imposed on the property by the law or regulation.  
14          The property owner is not required to formally pursue an application for a  
15          development order, development permit, or building permit, as such will be deemed  
16          a waste of resources and shall not be a prerequisite to bringing a claim under this  
17          Chapter. However, any claim must be filed within one year after the date of the  
18          property owner's receipt of the notice from the governmental entity of the limitations  
19          on use imposed on the real property.

20          (2) In other cases, the law or regulation is first applied to the property when  
21          there is a formal denial of a written request for development or variance.

22          D. If an owner seeks relief from the governmental action through lawfully  
23          available administrative or judicial proceedings, the time for bringing an action  
24          under this section is tolled until the conclusion of such proceedings.

25          E. No cause of action exists under this Section as to the application of any  
26          law enacted before August 1, 2024, or as to the application of any rule, regulation,  
27          or ordinance adopted, or formally noticed for adoption, on or before that date. A  
28          subsequent amendment to any such law, rule, regulation, or ordinance gives rise to  
29          a cause of action under this Section only to the extent that the application of the

1 amendment imposes an inordinate burden apart from the law, rule, regulation, or  
2 ordinance being amended.

3 F. The state for itself and for its agencies or political subdivisions, waives  
4 sovereign immunity for causes of action based upon the application of any law,  
5 regulation, or ordinance subject to this Chapter only to the extent specified in this  
6 Chapter.

7 §1180. Property Owner Bill of Rights

8 Each parish property appraiser office shall provide on its website a Property  
9 Owner Bill of Rights. The purpose of the bill of rights is to identify certain existing  
10 rights afforded to property owners but is not a comprehensive guide. The Property  
11 Owner Bill of Rights does not create a civil cause of action. The Property Owner  
12 Bill of Rights shall include the following:

13 This Bill of Rights does not represent all of your rights under Louisiana law  
14 regarding your property and should not be viewed as a comprehensive guide to  
15 property rights. This document does not create a civil cause of action and neither  
16 expands nor limits any rights or remedies provided under any other law. This  
17 document does not replace the need to seek legal advice in matters relating to  
18 property law. Laws relating to your rights are found in the Constitution of Louisiana,  
19 Louisiana codes and revised statutes, local ordinances, and court decisions. Your  
20 rights and protections include:

- 21 (1) The right to acquire, possess, and protect your property.
- 22 (2) The right to use and enjoy your property.
- 23 (3) The right to exclude others from your property.
- 24 (4) The right to dispose of your property.
- 25 (5) The right to due process.
- 26 (6) The right to just compensation for property taken for a public purpose.
- 27 (7) The right to relief, or payment of compensation, when a new law, rule,
- 28 regulation, or ordinance of the state or a political entity unfairly affects your
- 29 property.

---

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

---

HB 625 Original

2024 Regular Session

Lyons

**Abstract:** Provides relative to property owner rights and establishes a "Property Owner Bill of Rights".

Proposed law provides the legislative intent and a purpose statement for the rights and procedures for property owners to protect their property rights.

Proposed law provides definitions for the following terms used in proposed law:

- (1) Vested rights.
- (2) Existing use.
- (3) Governmental entity.
- (4) Action of governmental entity.
- (5) Inordinate burden.
- (6) Property owner.
- (7) Real property.

Proposed law establishes a right for property owners against a governmental entity when a governmental entity inordinately burdens the rights of a property owner pursuant to proposed law.

Proposed law provides that property owners who have a claim shall provide written notice to all governmental entities that have inordinately burdened their property ownership. Further requires notice within 90 days of the inordinate burden before filing an action pursuant to proposed law.

Proposed law also requires the governmental entity to report the claim to the Office of the Attorney General within 15 days of receiving notice of the claims of the property owner.

Proposed law provides the procedures and time delays regarding settlement agreements between a property owner and a governmental entity. Proposed law also provides that a governmental entity shall make a written settlement offer within the 90 day notice period or within a time stipulated with the property owner and include the information required by proposed law.

Proposed law provides the procedures and time delays regarding litigation of a claim of a property owner. Proposed law also provides that either the property owner or governmental entity can recover reasonable attorney fees and court costs in certain circumstances pursuant to proposed law. Proposed law provides that the fees and costs are to be determined by the court.

Proposed law provides for the waiver of sovereign immunity for causes of action based upon the application of any law, regulation, or ordinance subject to proposed law only to the extent specified in proposed law.

Proposed law establishes a Property Owner Bill of Rights which requires specific language which shall be provided on a parish accessor's website pursuant to proposed law.

(Adds R.S. 9:1171-1180)