
DIGEST

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Cazayoux

HB No. 15

Abstract: Sets forth the requirements of the petition to expropriate by declaration of taking property needed by the Department of Transportation and Development for construction of design-build projects and the information which must be annexed to such petition.

Present law requires a petition for expropriation by declaration of taking of property needed for a highway project to be filed by the plaintiff in the district court of the parish in which the property is situated. However, if the property extends into two or more parishes and the owner of the property resides in one of them, the petition shall be filed in the district court of the parish where the owner resides. If the owner does not reside in any one of the parishes into which the property extends, the petition may be filed in any one of the parishes. The court where the petition is filed shall have jurisdiction as to all the property involved. Proposed law retains present law and its applicability to property needed for design-build projects.

Present law requires the petition to expropriate include a statement of the purpose for which the property is to be expropriated, describing the property with a plan of the same and a description of the improvements thereon, if any, and the name of the owners as shown in the public records. Proposed law retains present law and its applicability to property needed for design-build projects.

Present law requires the following information to be annexed to the petition to expropriate and proposed law retains or amends these provisions for design-build projects as indicated:

- (1) A certified copy of a certificate of authorization to expropriate executed by the secretary of the department, declaring that the taking is necessary or useful for the construction of a highway project. Proposed law retains present law.
- (2) A certificate signed by the chief engineer or, in his absence, his principal assistant, declaring that he has fixed the right-of-way in a manner sufficient in his judgment to provide presently and in the future for the public interest, safety, and convenience and a second certificate signed by the chief engineer, the road design engineer, and, if appropriate, by the bridge design engineer, declaring that the location and design of the proposed improvements are in accordance with the best modern practices. Proposed law requires a single certificate signed by the chief engineer or his chief assistant declaring that the right-of-way has been fixed in a sufficient manner and that a determination of the amount and location of the property required for the purposes set forth in the petition has been made and that the property is neither excessive nor inadequate for such purposes.

- (3) An itemized statement of the amount of money estimated to be the full extent of the owner's loss for the taking or the damage, or both, the methodology used in the estimate, and all of the information required by present law relative to estimators. It shall be signed by those who made the estimate, showing the capacity in which they acted and the date on which it was made. The real estate administrator or his designated representative shall signify his approval on the face thereof. It shall not be grounds to dismiss the taking if it is shown that the estimate is or may be less than the full extent of the owner's loss. Proposed law, for design-build projects, further provides that making the estimate without consideration of final plans is also not grounds for dismissal.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 48:442.1)