

Regular Session, 2014

HOUSE BILL NO. 478

BY REPRESENTATIVE MILLER

PROPERTY/EXPROPRIATION: Provides relative to procedures in certain expropriation proceedings

1 AN ACT

2 To amend and reenact R.S. 19:147, 150, 151, and 159, relative to expropriation; to provide  
3 relative to certain expropriation procedures; to provide for final judgments for  
4 purposes of immediate appeal; to provide for the delay within which to request a jury  
5 trial; to provide relative to appeals; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 19:147, 150, 151, and 159 are hereby amended and reenacted to read  
8 as follows:

9 §147. Contesting validity of taking; waiver of defenses; judgment on validity or  
10 extent of taking

11 A. Any defendant desiring to contest the validity of the taking on the ground  
12 that the property was not expropriated for a public use may file a motion to dismiss  
13 the suit within ten days from the date the notice was served on him. He shall certify  
14 thereon that a copy thereof has been served personally or by mail on either the  
15 plaintiff or his attorney of record in the suit. This motion shall be tried  
16 contradictorily with the plaintiff.

17 B. Failure to file the motion within the time provided or to serve a copy  
18 thereof on the plaintiff constitutes a waiver of all defenses to the suit except claims  
19 for compensation.



1 (1) He files an answer within one year from the date he is notified in writing  
2 by the plaintiff that it has finally accepted the construction of the facility or facilities  
3 for which the property was expropriated;

4 (2) His answer sets forth the amount he claims as the value of each parcel  
5 expropriated and the amount he claims as damages to the remainder of his property;

6 (3) His damage claim is reasonably itemized;

7 (4) His answer has a certificate thereon showing that a copy thereof has been  
8 served personally or by mail on all parties to the suit who have not joined in the  
9 answer.

10 B. If the defendant desires a trial by jury, he shall file his demand for a jury  
11 trial at the same time he files his answer. Failure to demand a jury within the time  
12 provided constitutes a waiver of the right to a jury trial.

13 C. Upon the filing of the answer, the court shall issue an order fixing the  
14 time of the trial of the suit. The clerk of court shall thereupon issue a notice to all  
15 parties who did not join in the answer of the time fixed for the trial. This notice shall  
16 be served at least twenty days before the time fixed for trial and in the same manner  
17 provided for the service of citations.

18 \* \* \*

19 §159. ~~Effect~~ Appeal; expedited review; effect of appeal

20 A. The judgment determining the validity or the extent of the taking shall be  
21 subject to the decision of the appellate court on review under a devolutive appeal,  
22 and the delays for taking such an appeal shall commence upon the signing of that  
23 judgment.

24 B. The appellate court shall consider an appeal of such judgment on an  
25 expedited basis.

26 C. No appeal in any expropriation suit brought under these provisions shall  
27 operate to prevent or delay the vesting of title in the plaintiff.

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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)]

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Miller

HB No. 478

**Abstract:** Provides that a judgment determining the validity of a taking in an expropriation proceeding shall be a final judgment for purposes of an immediate appeal, provides for the delays in which to request a jury trial, and provides for the effects of an appeal.

Present law provides that any defendant desiring to contest the validity of the taking in an expropriation proceeding on the ground that the property was not expropriated for a public use may file a motion to dismiss the suit within ten days from the date the notice was served on him, and that failure to file the motion within the time provided or to serve a copy thereof on the plaintiff constitutes a waiver of all defenses to the suit except claims for compensation.

Proposed law retains present law and provides that a judgment rendered determining the validity of the taking shall be designated as a final judgment for the purpose of an immediate appeal.

Present law provides that in a proceeding where an entire lot, block or tract of land is expropriated, any defendant may apply for a trial to determine the market value of the property expropriated if the defendant files an answer within 30 days from the date he is served with the notice.

Proposed law retains present law and provides that if the defendant desires a trial by jury, he shall file his demand for a jury trial within 30 days from the date he is served with the notice, and provides that failure to demand a jury within the time provided constitutes a waiver of the right to a jury trial.

Present law provides that where a portion of a lot, block or tract of land is expropriated, any defendant may apply for a trial to determine the just and adequate compensation to which he is entitled if he files an answer within one year from the date he is notified in writing by the plaintiff that it has finally accepted the construction of the facility for which the property was expropriated.

Proposed law retains present law and provides that if the defendant desires a trial by jury, he shall file his demand for a jury trial at the same time he files his answer, and provides that failure to demand a jury within the time provided constitutes a waiver of the right to a jury trial.

Present law provides that no appeal in any expropriation suit brought under the provisions of present law shall operate to prevent or delay the vesting of title in the plaintiff.

Proposed law retains present law and provides that the judgment determining the validity or the extent of the taking shall be subject to the decision of the appellate court on review under a devolutive appeal, that the delays for taking such an appeal shall commence upon the signing of that judgment, and that the appellate court shall consider an appeal of such judgment on an expedited basis.

(Amends R.S. 19:147, 150, 151, and 159)