

Regular Session, 2009

HOUSE BILL NO. 182

BY REPRESENTATIVE ROBIDEAUX

1 AN ACT

2 To enact Part III-I of Title 19 of the Louisiana Revised Statutes of 1950, to be comprised of  
3 R.S. 19:139 through 139.7, relative to expropriation by a declaration of taking; to  
4 authorize the city of Lafayette and parish of Lafayette to expropriate property for the  
5 Kaliste Saloom Road Widening Project; to provide procedures for the expropriation  
6 by a declaration of taking; and to provide for related matters.

7 Notice of intention to introduce this Act has been published  
8 as provided by Article III, Section 13 of the Constitution of  
9 Louisiana.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Part III-I of Title 19 of the Louisiana Revised Statutes of 1950,  
12 comprised of R.S. 19:139 through 139.7, is hereby enacted to read as follows:

13 PART III-I. EXPROPRIATION OF PROPERTY BY A DECLARATION  
14 OF TAKING BY CITY OF LAFAYETTE AND PARISH OF LAFAYETTE

15 §139. City of Lafayette and parish of Lafayette; Kaliste Saloom Road Widening  
16 Project; acquisition of property prior to judgment; definitions

17 A. When the governing authority cannot amicably acquire property needed  
18 by the city of Lafayette and the parish of Lafayette for the Kaliste Saloom Road  
19 Widening Project, it may acquire the same by expropriation and may acquire the  
20 property prior to judgment in the trial court fixing the amount of compensation due  
21 to the owner of the property.

22 B. At least fifteen days prior to filing a petition for expropriation, the  
23 governing authority shall notify the owner or owners by certified mail, return receipt  
24 requested, of its intention to expropriate the property pursuant to this Part. The letter  
25 of notification shall also inform the owner that if, within fifteen days after being

1 served with the notice of suit, he does not object to the taking on the ground that it  
 2 is not for a public purpose, he will waive all defenses to the taking except claims for  
 3 compensation or damages. A copy of this Part shall be enclosed with the letter of  
 4 notification.

5 C. Except as otherwise provided in this Part, such expropriation by the  
 6 governing authority shall be conducted in the manner that the Department of  
 7 Transportation and Development may expropriate property for highway purposes,  
 8 as set forth in R.S. 48:441 through 460.

9 D. As used in this Part, the term "property" means any portion of immovable  
 10 property, including servitudes, rights-of-way, and other rights in or to immovable  
 11 property; the term "governing authority" means the city of Lafayette and parish of  
 12 Lafayette; and the term "project" means the Kaliste Saloom Road Widening Project.

13 §139.1. Contents of petition; place of filing

14 The right of expropriation granted by this Part shall be exercised in the  
 15 following manner:

16 (1) A petition shall be filed by the governing authority in the district court  
 17 of the parish in which the property to be expropriated is situated.

18 (2) The petition shall contain a statement of the purpose for which the  
 19 property is to be expropriated, describing the property necessary therefor with a plan  
 20 of the same, a description of the improvements thereon, if any, and the name of the  
 21 owner if known.

22 (3) The petition shall have annexed to it all of the following:

23 (a) A certified copy of a resolution or ordinance adopted by the governing  
 24 authority authorizing the taking and declaring that it is necessary or useful for the  
 25 purposes of this Part.

26 (b) A certificate signed by the consulting engineer for the governing  
 27 authority declaring that (i) he has fixed the right-of-way in a manner sufficient in his  
 28 judgment to provide for the public interest, safety, and convenience and (ii) the  
 29 location and design of the proposed improvements are in accordance with the best  
 30 modern practices adopted in the interest of the safety and convenience of the public.

1           (c) An itemized statement of the amount of money estimated to be the full  
2           extent of the owner's loss for the taking or the damage, or both, as the case may be.  
3           It shall be signed by those who made the estimate, showing the capacity in which  
4           they acted, and the date on which it was made.

5           (d) A copy of the return receipt from the letter of notification of intention to  
6           expropriate the property, as required by R.S. 19:139(B).

7           §139.2. Prayer of the petition; ex parte order of taking

8           The petition shall conclude with a prayer that the property be declared taken  
9           for public purposes and, upon presentation of the petition, the court shall issue an  
10          order directing that the amount of the estimate be deposited in the registry of the  
11          court and declaring that the property described in the petition has been taken for  
12          public purposes at the time of the deposit.

13          §139.3. Vesting of title

14          Title to the property and the property rights specified in the petition shall vest  
15          in the governing authority upon final court order declaring that the property  
16          described in the petition has been taken for the project, and the right to just and  
17          adequate compensation therefor shall vest in the persons entitled thereto. Upon  
18          vesting of title, the governing authority may enter upon and take possession of the  
19          property.

20          §139.4. Notice to defendant

21          A. Upon receipt of the deposit, the clerk of court shall issue a notice to each  
22          defendant in the suit, notifying him that the property described in the petition has  
23          been expropriated for public purposes.

24          B. This notice, together with a certified copy of the order, the petition, and  
25          the clerk's receipt for the deposit, shall be delivered by the clerk to the proper sheriff  
26          for service on each defendant in the manner provided for the service of citations.

27          §139.5. Contesting validity of taking; waiver of defenses

28          A. Any defendant desiring to contest the validity of the taking on the ground  
29          that the property was not expropriated for a public use may file a motion to dismiss  
30          the suit within fifteen days from the date the notice was served on him. He shall

1           certify thereon that a copy thereof has been served personally or by mail on either  
 2           the plaintiff or his attorney of record in the suit. This motion shall be tried  
 3           contradictorily with preference to the judge alone and shall be decided prior to fixing  
 4           the case for trial on the compensation or damages due to the defendant.

5           B. Failure to file the motion within the time provided or to serve a copy  
 6           thereof on the plaintiff constitutes a waiver of all defenses to the suit except claims  
 7           for compensation or damages.

8           §139.6. Defendant's answer; requirements; delay for filing

9           When property is expropriated pursuant to this Part, any defendant may apply  
 10          for a trial to determine the measure of compensation to which he is entitled, if:

11          (1) He files an answer within one year from the date he is notified in writing  
 12          by the governing authority that it has finally accepted the construction project for  
 13          which the property was expropriated. However, he may file his answer prior to the  
 14          date he is notified by the governing authority.

15          (2) His answer sets forth the amount he claims, including the value of each  
 16          parcel expropriated and the amount he claims as damages to the remainder of his  
 17          property.

18          (3) His damage claim is reasonably itemized.

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

22          §139.7. Grant as additional authority

23          The right to take possession and title as provided in this Part is in addition to  
 24          any right or authority conferred by the laws of this state under which expropriation  
 25          proceedings may be conducted and shall not be construed as abrogating, eliminating,  
 26          or modifying any such right or authority.

27          Section 2. This Act shall become effective upon signature by the governor or, if not  
 28          signed by the governor, upon expiration of the time for bills to become law without signature  
 29          by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
2 effective on the day following such approval.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_