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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Dawn Romero Watson.

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## DIGEST

Morrell (SB 371)

Present law provides that any defendant desiring to contest the validity of the taking on the ground that the property was not expropriated for a public use can file a motion to dismiss the suit within 10 days from the date the notice was served on him, and that failure to file the motion timely or to serve a copy on the plaintiff constitutes a waiver of all defenses to the suit except claims for compensation.

Proposed law retains present law and expands to contests on the extent of the taking. Provides that a judgment rendered determining the validity or extent of the taking 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 he files an answer within 30 days from the date he is served with the notice, his answer sets forth the amount he claims, and his answer has a certificate showing that a copy has been served personally or by mail on all parties to the suit who have not joined in the answer.

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 of taking, and that failure to demand a jury timely 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 or facilities for which the property was expropriated, his answer sets forth the amount he claims as the value of each parcel expropriated and the amount he claims as damages to the remainder of his property, his damage claim is reasonably itemized, and his answer has a certificate showing that a copy has been served personally or by mail on all parties to the suit who have not joined in the answer.

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 that failure to demand a jury timely 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 no party to an expropriation proceeding shall be granted a suspensive appeal. Provides that the judgment determining the validity or the extent

of the taking is subject to the decision of the appellate court on review under a devolutive appeal, and the delays for taking such an appeal commence upon the signing of that judgment. Requires the appellate court to consider such an appeal on an expedited basis.

Effective August 1, 2014.

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