

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 478 by Representative Miller

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

Synopsis of Senate Amendments

1. Changed the time period to file the motion to dismiss from 10 days to 20 days.
2. Added a technical amendment specifying that the pleading demanding a jury trial shall be filed not later than the period during which the defendant has to file his answer.
3. Added provision providing for prospective application only to actions or claims filed on and after the effective date.

Digest of Bill as Finally Passed by Senate

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 10 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 specifies that the failure to file the motion to dismiss within 20 days of service of the notice constitutes a waiver of all defenses.

Proposed law provides that if a motion to dismiss is timely filed, the court shall set the hearing within 30 days and render a decision within five days, 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 required by R.S. 19:146, 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, requires notice by certified mail, and provides that if the defendant desires a trial by jury, he shall include a demand for a jury trial in his answer or separate pleading demanding a jury trial, which shall be filed within the time allowed to file an answer.

Proposed law 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 a suspensive appeal shall not be available in an expropriation proceeding, that the judgment determining the validity or the extent of the taking shall be subject to 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 a judgment rendered pursuant to R.S. 19:147 on an expedited basis.

Provides that proposed law shall have prospective application only and shall apply only to actions or claims filed on and after its effective date.

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