

BILL ANALYSIS

Senate Research Center
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S.B. 479
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State Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 18 (Estes et al.), 82nd Legislature, Regular Session, 2011, reestablished and protects the rights of private property owners by allowing a property owner to repurchase land acquired through eminent domain if the property is not used for the stated public use within 10 years. However, the law prohibits a private property owner from repurchasing the land if the governmental entity has made "actual progress" towards the public use. Unfortunately, the definition of "actual progress" is unnecessarily broad and is easily satisfied by a governmental entity exercising eminent domain authority.

S.B. 479 strengthens private property rights by increasing the requirement for how a governmental entity demonstrates that it has made actual progress towards its stated public use. Specifically, S.B. 479 narrows the definition of "actual progress" by requiring a governmental entity exercising its eminent domain authority to complete at least three of the following property development actions: (1) perform significant labor on the property; (2) purchase materials for development; (3) procure the services of an architect, engineer, or surveyor in preparation for development; (4) apply for state or federal funds for development; or (5) apply for a state or federal permit needed for development. Currently, an entity can satisfy the "actual progress" requirement by simply acquiring an adjacent tract of property and adopting a development plan stating that the entity will not be able to complete any other development actions during the 10-year period. S.B. 479 strikes these two loophole provisions, which are not indicative of legitimate actual progress.

S.B. 479 reestablishes and protects the rights of private property owners, prevents government abuse and misuse of eminent domain authority, and encourages more timely public use of property acquired through eminent domain.

As proposed, S.B. 479 amends current law relating to establishing actual progress for the purposes of determining the right to repurchase real property from a condemning entity.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 21.101(b), Property Code, to redefine "actual progress" to mean the completion of three or more, rather than two or more, of the actions set forth in this section, and deletes the actions described in Subdivisions (6) and (7).

SECTION 2. Provides that Section 21.101(b), Property Code, as amended by this Act, applies only to a real property interest acquired in connection with a condemnation proceeding in which the petition is filed on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2015.