

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1604

By: Walke and Olsen

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5  
6 AS INTRODUCED

7 An Act relating to eminent domain; amending 27 O.S.  
8 2011, Section 9, which relates to eminent domain  
9 application; deleting requirement to use certain  
10 funds for acquisitions; amending 27 O.S. 2011,  
11 Section 13, which relates to eminent domain policies;  
12 allowing for additional damages; requiring certain  
13 evidence; setting award for damages; repealing 27  
14 O.S. 2011, Section 15, which relates to the effect of  
15 statements of policies; and providing an effective  
16 date.

17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. AMENDATORY 27 O.S. 2011, Section 9, is  
19 amended to read as follows:

20 Section 9. The provisions of Sections 9 through 14 of this act  
21 title shall be applicable to the acquisition of real property under  
22 the laws of this state for public use in any project or program ~~in~~  
23 ~~which federal, state or local funds are used.~~

24 SECTION 2. AMENDATORY 27 O.S. 2011, Section 13, is  
amended to read as follows:

1 Section 13. A. Any person, acquiring agency or other entity  
2 acquiring real property for any public project or program described  
3 in Section 9 of this title shall comply with the following policies:

4 1. Every reasonable effort shall be made to acquire,  
5 expeditiously, real property by negotiation-; i

6 2. Real property shall be appraised before the initiation of  
7 negotiations, and the owner or his or her designated representative  
8 shall be given an opportunity to accompany the appraiser during his  
9 or her inspection of the property, except that the head or governing  
10 body of the entity acquiring real property, if so mandated by  
11 federal law or regulation, may prescribe a procedure to waive the  
12 appraisal in cases involving the acquisition by sale or donation of  
13 property with a low fair market value as such value is defined by  
14 federal law or regulation-; i

15 3. Before the initiation of negotiations for real property, an  
16 amount shall be established which is reasonably believed to be just  
17 compensation therefor and such amount shall be promptly offered for  
18 the property. In no event shall such amount be less than the  
19 approved appraisal of the fair market value of such real property.  
20 Any decrease or increase in the fair market value of real property  
21 prior to the date of valuation caused by the public improvement for  
22 which such property is acquired, or by the likelihood that the  
23 property would be acquired for such improvement, other than that due  
24 to physical deterioration within the reasonable control of the

1 owner, will be disregarded in determining the compensation for the  
2 property. The owner of the real property to be acquired shall be  
3 provided with a written statement of, and summary of the basis for,  
4 the amount established as just compensation. Where appropriate, the  
5 just compensation for the real property acquired and for damages to  
6 remaining real property shall be separately stated-;

7 4. No owner shall be required to surrender possession of real  
8 property before the agreed purchase price is paid or deposited with  
9 the state court, in accordance with applicable law, for the benefit  
10 of the owner of an amount not less than the approved appraisal of  
11 the fair market value of such property, or the amount of the award  
12 of compensation in the condemnation proceeding of such property-;

13 5. The construction or development of a public improvement  
14 shall be so scheduled that, to the greatest extent practicable, no  
15 person lawfully occupying real property shall be required to move  
16 from a dwelling, assuming a replacement dwelling, as required by the  
17 Oklahoma Relocation Assistance Act, will be available, or to move  
18 his or her business or farm operation without at least ninety (90)  
19 days' written notice from the date by which such move is required-;

20 6. If any owner or tenant is permitted to occupy the real  
21 property acquired on a rental basis for a short term or for a period  
22 subject to termination on short notice, the amount of rent required  
23 shall not exceed the fair rental value of the property to a  
24 short-term occupier-;

1           7. In no event shall the time of condemnation be advanced, on  
2 negotiations or condemnation and the deposit of funds in court for  
3 the use of the owner be deferred, or any other coercive action be  
4 taken to compel an agreement on the price to be paid for the  
5 property-; i

6           8. If an interest in real property is to be acquired by  
7 exercise of power of eminent domain, formal condemnation proceedings  
8 shall be instituted. The acquiring authority shall not  
9 intentionally make it necessary for an owner to institute legal  
10 proceedings to prove the fact of the taking of his or her real  
11 property-; i

12           9. If the acquisition of only part of the property would leave  
13 its owner with an uneconomic remnant, an offer to acquire that  
14 remnant shall be made. For the purposes of this section, an  
15 uneconomic remnant is a parcel of real property in which the owner  
16 is left with an interest after the partial acquisition of the  
17 property of the owner which has little or no value or utility to the  
18 owner-; i and

19           10. A person whose real property is being acquired in  
20 accordance with this title may, after the person has been fully  
21 informed of his or her right to receive just compensation for such  
22 property, donate such property, any part thereof, any interest  
23 therein, or any compensation paid therefor, as such person shall  
24 determine.

1 ~~11.~~ B. As used in this section:

2 ~~a.~~

3 1. "Appraisal" means a written statement independently and  
4 impartially prepared by a qualified appraiser setting forth an  
5 opinion of defined value of an adequately described property as of a  
6 specific date, supported by the presentation and analysis of  
7 relevant market information; and

8 ~~b.~~

9 2. "Acquiring agency" means:

10 ~~(1)~~

11 a. a state agency which has the authority to acquire  
12 property by eminent domain pursuant to state law, and

13 ~~(2)~~

14 b. a state agency or person which does not have such  
15 authority, to the extent provided by regulation.

16 C. The policies found within this section shall not serve as  
17 the basis for a separate cause of action, but may serve as the basis  
18 for additional damages. If an owner alleges that said policies were  
19 violated and proves the same by clear and convincing evidence, the  
20 judge or jury, as the case may be, shall award damages in the amount  
21 of any actual damages or, if there are no actual damages, Ten  
22 Thousand Dollars (\$10,000.00) per violation.

23 SECTION 3. REPEALER 27 O.S. 2011, Section 15, is hereby  
24 repealed.

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SECTION 4. This act shall become effective November 1, 2021.

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