

BILL ANALYSIS

Senate Research Center
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S.B. 628
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2011, the 82nd Texas Legislature passed S.B. 18, which reestablished and protected the rights of private property owners by allowing a property owner to repurchase land acquired through eminent domain if within 10 years the property is not used for the stated public use. However, the law prohibits a private property owner from repurchasing the land if the entity has made "actual progress" towards the public use. Unfortunately, the definition of "actual progress" is unnecessarily broad and easily satisfied.

S.B. 628 strengthens private property rights by increasing the requirement for how an entity demonstrates that it has made actual progress towards its stated public use. Specifically, S.B. 628 narrows the definition of "actual progress" by requiring an 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 a significant amount of 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.

The bill eliminates two "actual progress" actions that may be abused to only delay action or induce further use of eminent domain instead of show progress on a true public use: currently, an entity can satisfy the actual progress requirement by acquiring an adjacent tract of property. This bill removes that option. For all entities except navigation districts and port authorities, the bill also removes the action of publicly 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 will reestablish and protect the rights of private property owners, prevent abuse and misuse of eminent domain authority, and encourage more timely public use of property acquired through eminent domain.

As proposed, S.B. 628 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, Property Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Redefines "actual progress" to mean completion of three, rather than two, or more of certain actions.

(b-1) Creates this subsection from existing text. Defines "actual progress" for a navigation district or port authority, notwithstanding Subsection (b), to mean the completion of one action described by Subsection (b) and the adoption by an entity's governing body meeting certain requirements of a certain development plan. Deletes

existing Subdivision (6) relating to the acquisition of a certain tract or parcel of real property. Makes conforming and nonsubstantive changes.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2017.