

1 SENATE BILL 217

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Elizabeth "Liz" Stefanics

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10 AN ACT

11 RELATING TO EMINENT DOMAIN; REQUIRING A CONDEMNOR AND CONDEMNEE
12 TO OBTAIN PROPERTY APPRAISALS IF SETTLEMENT NEGOTIATIONS FAIL.

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 42A-1-5 NMSA 1978 (being Laws 1980,
16 Chapter 20, Section 5) is amended to read:

17 "42A-1-5. APPRAISAL--OFFER.--

18 A. If the parties are unable to negotiate a
19 settlement [~~the condemnee may, within twenty-five days after~~
20 ~~written notice by the condemnor of its intent to file a~~
21 ~~condemnation action in district court, give written notice to~~
22 ~~the condemnor requesting an appraisal]~~ and prior to the
23 condemnor filing a condemnation action, the parties shall have
24 the property appraised to determine the amount that would
25 constitute just compensation for the taking of the condemnee's

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1 property and ~~[obtained]~~ shall obtain appraisals from:

2 (1) one appraiser appointed by the condemnor;

3 (2) one appraiser appointed by the condemnee;

4 and

5 (3) one appraiser jointly appointed by the
6 appraisers for the condemnor and the condemnee.

7 B. The condemnee and condemnor shall appoint their
8 respective appraisers within ~~[fifteen]~~ twenty-five days after
9 written notice has been given by the ~~[condemnee]~~ condemnor to
10 the ~~[condemnor pursuant to the provisions of Subsection A of~~
11 ~~this section]~~ condemnee of the condemnor's intent to file a
12 condemnation action in district court, and the third appraiser
13 shall be jointly appointed within fifteen days thereafter.

14 C. The appraisals shall be in writing and signed by
15 the appraisers. The appraisers shall deliver copies to each
16 party personally or by registered mail or certified mail,
17 return receipt requested.

18 D. The fees and expenses of the appraisers shall be
19 paid by the appointing parties; provided, however, that the
20 condemnee and condemnor shall share equally in paying the fees
21 and expenses of the jointly appointed appraiser.

22 E. After receiving a copy of the appraisals
23 provided for pursuant to this section, the condemnor may
24 establish an amount ~~[which]~~ that it believes to be just
25 compensation and may submit to the condemnee an offer to

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1 acquire the property for the full amount so established. If
2 the condemnor tenders an offer pursuant to this section, the
3 amount offered for the property shall not be less than the
4 amount of compensation shown by the final common appraisal of
5 the three appraisers, or, if all three appraisers do not agree,
6 the offer shall not be less than the appraisal prepared by the
7 ~~[condemnor's]~~ jointly appointed appraiser. The condemnee must
8 reject or accept the offer made by the condemnor pursuant to
9 this section within fifteen days after the offer is tendered."

10 SECTION 2. Section 42A-1-7 NMSA 1978 (being Laws 1980,
11 Chapter 20, Section 7, as amended) is amended to read:

12 "42A-1-7. PURCHASE EFFORTS WAIVED OR EXCUSED.--A
13 condemnor's failure or inability to make reasonable and
14 diligent efforts to acquire property by negotiation, make
15 appraisals available pursuant to Subsection B of Section
16 42A-1-4 NMSA 1978 or appoint appraisers ~~[upon the request of~~
17 ~~the condemnee]~~ pursuant to Subsection A of Section 42A-1-5 NMSA
18 1978 does not bar the maintenance of a condemnation action in
19 the manner authorized by law, notwithstanding timely objection,
20 if:

21 A. compliance is waived by written agreement
22 between the condemnee and the condemnor;

23 B. one or more of the condemnees of the property
24 are unknown, cannot with reasonable diligence be contacted, are
25 incapable of contracting and have no legal representative or

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1 own an interest which cannot be conveyed under the
2 circumstances;

3 C. due to conditions not caused by or under the
4 control of the condemnor, there is a compelling need on the
5 part of the condemnor to avoid the delay in commencing the
6 action which compliance would require;

7 D. the condemnee fails to provide any appraisals
8 required pursuant to Subsection B of Section 42A-1-4 NMSA 1978;
9 or

10 E. the appraisers provided for pursuant to Section
11 42A-1-5 NMSA 1978 fail to submit the appraisals to the parties
12 within thirty days from the date that the jointly appointed
13 appraiser was appointed."