

Regular Session, 2012

HOUSE BILL NO. 26

BY REPRESENTATIVE CONNICK

PROPERTY/EXPROPRIATION: Provides relative to the return of expropriated residential property

1 AN ACT

2 To enact R.S. 9:3191.1, relative to the return of expropriated residential property; to provide
3 for prescription; to provide for payment; to provide for transfer of ownership; to
4 provide for civil procedures for opposing transfer of ownership; to provide for
5 applicability; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:3191.1 is hereby enacted to read as follows:

8 §3191.1. Thirty-year prescription; return of expropriated residential property

9 A. If residential property expropriated by the state or a political subdivision
10 of the state remains in the possession of and is maintained by the original owner or
11 his heir for a period of more than thirty years, the expropriated property shall be
12 transferred back to the original owner or his heir upon payment of the fair market
13 value of the property.

14 B. Upon expiration of the thirty-year period as provided by Subsection A of
15 this Section, the original owner or his heir may tender payment of the fair market
16 value of the property and deliver an act of transfer of ownership to the state or
17 political subdivision of the state which expropriated the residential property. Within
18 thirty days of receipt of the act of transfer of ownership and payment of the fair
19 market value of the property, the state or political subdivision of the state which

1 expropriated the residential property shall execute and return the act of transfer of
2 ownership without additional cost to the original owner or his heir.

3 C. The state or political subdivision of the state which expropriated the
4 residential property may oppose the act of transfer of ownership by filing an action
5 for injunction within thirty days of receipt of the tendered payment and the act of
6 transfer of ownership in the district court where the property is located.

7 (1) If the court finds that the original owner or his heir failed to tender fair
8 market value of the property, retain possession of the property, or maintain the
9 property for the requisite thirty-year period, the court shall grant the injunction and
10 the state or political subdivision of the state shall not be required to execute the act
11 of transfer of ownership.

12 (2) If the court finds that the original owner or his heir tendered the fair
13 market value of the property, retained possession of the property, and maintained the
14 property for the requisite thirty-year period, the court shall order the state or political
15 subdivision of the state to execute the act of transfer of ownership and shall award
16 court costs and attorney fees to the original owner or his heir.

17 D.(1) The provisions of this Section shall not apply to property expropriated
18 construction, operation, or maintenance of levees, levee systems, flood control,
19 drainage, hurricane or storm surge protection, or integrated coastal protection.

20 (2) The provisions of this Section shall not apply to property expropriated
21 by the Department of Transportation and Development.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Connick

HB No. 26

Abstract: Provides for the return of expropriated property to the original owner or his heir after the passage of more than 30 years under certain circumstances.

Present law provides procedures for the expropriation of property for public purposes.

Present law (La. Const. Art. I, §4(B)(1) and (5)) requires payment of just compensation to the full extent of the owner's loss.

Present law (La. Const. Art. I, §4(H)(1)) provides that after 30 years have passed from the date the property was expropriated, the state or political subdivision may sell or otherwise transfer the property as provided by law.

Proposed law provides that if residential property expropriated by the state or a political subdivision of the state remains in the possession of and is maintained by the original owner or his heir for a period of more than 30 years, the expropriated property shall be transferred back to the original owner or his heir upon payment of the fair market value of the property.

Proposed law provides for procedures by which the original owner or his heir may tender payment of the fair market value of the property and deliver an act of transfer of ownership to the state or political subdivision. Further provides for procedures for opposing the act of transfer of ownership.

Proposed law provides that the state or political subdivision shall not be required to execute the act of transfer of ownership if the court finds that the original owner or his heir failed to tender fair market value of the property, retain possession of the property, or maintain the property.

Proposed law provides that the state or political subdivision shall be required to execute the act of transfer of ownership and pay court costs and attorney fees if the court finds that the original owner or his heir tendered the fair market value of the property, retained possession of the property, and maintained the property.

Provides that proposed law shall not apply to property expropriated for the construction, operation, or maintenance of levees, levee systems, flood control, drainage, or hurricane or coastal protection projects, and shall not apply to property expropriated by DOTD.

(Adds R.S. 9:3191.1)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Added provisions to broaden the exemption for property expropriated for flood, hurricane, and coastal protection.
2. Added provision to exempt property expropriated by DOTD from application of proposed law.