

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 479  
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State Affairs  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 18 (Estes et al.), 82nd Legislature, Regular Session, 2011, which reestablishes 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.

C.S.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, C.S.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 five 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.

Given their unique nature and need for especially long-term planning, C.S.S.B. 479 affords port authorities and navigation districts greater flexibility in demonstrating "actual progress" by requiring they complete only one of the required actions if, at a public hearing, they pass a resolution stating they will not complete more than one of the required actions before the 10th anniversary of the date of acquisition of the property.

C.S.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.

C.S.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, Property Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Redefines "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 Subdivision (6).

(b-1) Provides that, notwithstanding Subsection (b), for a navigation district or port authority, "actual progress" means:

(1) the completion of one action described by Subsection (b); and

(2) the adoption by a majority of the entity's governing body at a public hearing of a development plan for a public use project that indicates that the entity will not complete more than one action described by Subsection (b), rather than Subdivisions (1)-(6), before the 10th anniversary of the date of acquisition of the property. Creates this subdivision from existing Subsection (b)(7). Makes a nonsubstantive change.

SECTION 2. Provides that Section 21.101, 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.