

Senate Bill 458

By: Senators Jones of the 10th, Seay of the 34th, Butler of the 55th, Tate of the 38th, Meyer von Bremen of the 12th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 22 of the Official Code of Georgia Annotated, relating to eminent domain,
2 so as to provide for nonbinding arbitration of proposed takings under certain circumstances;
3 to provide for the review of the legality of a proposed taking; to provide for the stay of
4 certain proceedings; to provide for related matters; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 22 of the Official Code of Georgia Annotated, relating to eminent domain, is amended
9 by inserting a new Part 3A in Article 1 of Chapter 2, relating to proceeding before assessors,
10 to read as follows:

11 *"Part 3A*

12 *22-2-50.*

13 *At any time prior to the day fixed in the notice for the hearing or, if such hearing is*
14 *rescheduled in accordance with Code Section 22-2-60, the day fixed by the assessors for*
15 *the hearing, the condemnee shall have the right to apply to the superior court of the county*
16 *in which the property sought to be condemned is located for a review of the legality of the*
17 *proposed taking, including, but not limited to, whether the condemnor has the authority to*
18 *take such property, whether such property is subject to a taking under the statute conferring*
19 *authority for such taking on the condemnor, and whether proper notices have been*
20 *provided by the condemnor to the condemnee. Upon the filing of a petition for such review*
21 *by the condemnee, further proceedings before the assessors shall be stayed until the court*
22 *issues a final ruling sustaining the legality of the proposed taking."*

SECTION 2.

Said title is further amended by inserting a new Code Section 22-2-80.1 to read as follows:

"22-2-80.1.

Upon the filing of an appeal of an award of the assessors, the court in which such appeal is filed shall order the parties to submit such case to nonbinding arbitration in which both parties shall participate and negotiate in good faith. In the event that such nonbinding arbitration does not resolve the appeal, the court shall proceed to consider the appeal in accordance with the provisions of this part."

SECTION 3.

Said title is further amended by inserting a new Code Section 22-2-102.3 to read as follows:

"22-2-102.3.

(a) Prior to the filing of a petition under this article, the condemnor shall offer the condemnee the opportunity to submit the taking to nonbinding arbitration. If such offer is accepted by the condemnee, such arbitration shall be expeditiously scheduled and both the condemnee and the condemnor shall attend and participate in such arbitration and shall negotiate in such arbitration in good faith. If the parties cannot reach an agreement during such arbitration, the condemnor may proceed to petition for the taking under this article.

(b) At any time prior to the date set for the hearing before the special master, the condemnee shall have the right to apply to the court in which the petition is pending for a review of the legality of the proposed taking, including, but not limited to, whether the condemnor has the authority to take such property, whether such property is subject to a taking under the statute conferring authority for such taking on the condemnor, and whether proper notices have been provided by the condemnor to the condemnee. Upon the filing of a petition for such review by the condemnee, further proceedings before the special master shall be stayed until the court issues a final ruling sustaining the legality of the proposed taking."

SECTION 4.

Said title is further amended by striking Code Section 22-2-132, relating to order to appear, and inserting in lieu thereof a new Code Section 22-2-132 to read as follows:

"22-2-132.

(a) Upon presentation of the petition, the presiding judge shall order that the parties submit the issue of the taking to nonbinding arbitration which shall be scheduled as expeditiously as possible.

(b) In the event that the issues involved in the taking are not resolved by the arbitration, the presiding judge may issue an order requiring the condemnor, the owner of the property

1 or of any interest therein, and the representative of any owner to appear at a time and place
2 named in the order and make known their objections, rights, or claims as to the value of the
3 property or of their interest therein, and any other matters material to their respective rights.

4 (b) The day named in the order shall be as early as may be convenient, due regard being
5 given to the necessities of notice.

6 (c) The order shall give appropriate directions for notice and the service thereof.

7 (d) It shall not be necessary to attach any other process to the petition except the order
8 referred to in this subsection (a) of this Code section, and the cause shall proceed as in rem.

9 (c) At any time prior to the date set for the hearing by the court, the condemnee shall have
10 the right to apply by motion for the court to review of the legality of the proposed taking,
11 including, but not limited to, whether the condemnor has the authority to take such
12 property, whether such property is subject to a taking under the statute conferring authority
13 for such taking on the condemnor, and whether proper notices have been provided by the
14 condemnor to the condemnee. Upon the filing of a petition for such review by the
15 condemnee, further proceedings before the court shall be stayed until the court issues a
16 final ruling sustaining the legality of the proposed taking."

17 SECTION 5.

18 All laws and parts of laws in conflict with this Act are repealed.