Sec. 2206.001. LIMITATION ON EMINENT DOMAIN FOR PRIVATE PARTIES OR ECONOMIC DEVELOPMENT PURPOSES. (a) This section applies to the use of eminent domain under the laws of this state, including a local or special law, by any governmental or private entity, including:

1. A state agency, including an institution of higher education as defined by Section 61.003, Education Code;
2. A political subdivision of this state; or
3. A corporation created by a governmental entity to act on behalf of the entity.

(b) A governmental or private entity may not take private property through the use of eminent domain if the taking:

1. Confers a private benefit on a particular private party through the use of the property;
2. Is for a public use that is merely a pretext to confer a private benefit on a particular private party;
3. Is for economic development purposes, unless the economic development is a secondary purpose resulting from municipal community development or municipal urban renewal activities to eliminate an existing affirmative harm on society from slum or blighted areas under:
   (A) Chapter 373 or 374, Local Government Code, other than an activity described by Section 373.002(b)(5), Local Government Code; or
   (B) Section 311.005(a)(1)(I), Tax Code; or
4. Is not for a public use.

(b-1) Subsection (b)(3) does not prohibit the taking of private property through the use of eminent domain for economic development purposes if the economic development is a secondary
purpose resulting from the elimination of urban blight under Subchapter I, Chapter 214, Local Government Code. This subsection expires December 31, 2016.

(c) This section does not affect the authority of an entity authorized by law to take private property through the use of eminent domain for:

(1) transportation projects, including, but not limited to, railroads, airports, or public roads or highways;

(2) entities authorized under Section 59, Article XVI, Texas Constitution, including:
   (A) port authorities;
   (B) navigation districts; and
   (C) any other conservation or reclamation districts that act as ports;

(3) water supply, wastewater, flood control, and drainage projects;

(4) public buildings, hospitals, and parks;

(5) the provision of utility services;

(6) a sports and community venue project approved by voters at an election held on or before December 1, 2005, under Chapter 334 or 335, Local Government Code;

(7) the operations of:
   (A) a common carrier pipeline; or
   (B) an energy transporter, as that term is defined by Section 186.051, Utilities Code;

(8) a purpose authorized by Chapter 181, Utilities Code;

(9) underground storage operations subject to Chapter 91, Natural Resources Code;

(10) a waste disposal project; or

(11) a library, museum, or related facility and any infrastructure related to the facility.

(d) This section does not affect the authority of a governmental entity to condemn a leasehold estate on property owned by the governmental entity.

(e) The determination by the governmental or private entity proposing to take the property that the taking does not involve an
act or circumstance prohibited by Subsection (b) does not create a presumption with respect to whether the taking involves that act or circumstance.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 1 (S.B. 7), Sec. 1, eff. November 18, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 693 (H.B. 364), Sec. 1, eff. September 1, 2011.

Sec. 2206.002. LIMITATIONS ON EASEMENTS. (a) This section applies only to an easement acquired by an entity for the purpose of a pipeline to be used for oil or gas exploration or production activities.

(b) A property owner whose property is acquired through the use of eminent domain under Chapter 21, Property Code, for the purpose of creating an easement through that owner's property may construct streets or roads, including gravel, asphalt, or concrete streets or roads, at any locations above the easement that the property owner chooses.

(c) The portion of a street or road constructed under this section that is within the area covered by the easement:

(1) must cross the easement at or near 90 degrees; and

(2) may not:

(A) exceed 40 feet in width;

(B) cause a violation of any applicable pipeline regulation; or

(C) interfere with the operation and maintenance of any pipeline.

(d) At least 30 days before the date on which construction of an asphalt or concrete street or road that will be located wholly or partly in an area covered by an easement used for a pipeline is scheduled to begin, the property owner must submit plans for the proposed construction to the owner of the easement.

(e) Notwithstanding the provisions of this section, a property owner and the owner of the easement may agree to terms...
other than those stated in Subsection (c).
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 2, eff. September 1, 2011.

SUBCHAPTER B. PROCEDURES REQUIRED TO INITIATE
EMINENT DOMAIN PROCEEDINGS

Sec. 2206.051. SHORT TITLE. This subchapter may be cited as the Truth in Condemnation Procedures Act.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 2, eff. September 1, 2011.

Sec. 2206.052. APPLICABILITY. The procedures in this subchapter apply only to the use of eminent domain under the laws of this state by a governmental entity.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 2, eff. September 1, 2011.

Sec. 2206.053. VOTE ON USE OF EMINENT DOMAIN. (a) Before a governmental entity initiates a condemnation proceeding by filing a petition under Section 21.012, Property Code, the governmental entity must:

(1) authorize the initiation of the condemnation proceeding at a public meeting by a record vote; and

(2) include in the notice for the public meeting as required by Subchapter C, Chapter 551, in addition to other information as required by that subchapter, the consideration of the use of eminent domain to condemn property as an agenda item.

(b) A single ordinance, resolution, or order may be adopted for all units of property to be condemned if:

(1) the motion required by Subsection (e) indicates that the first record vote applies to all units of property to be condemned; and

(2) the minutes of the governmental entity reflect
that the first vote applies to all of those units.

(c) If more than one member of the governing body objects to adopting a single ordinance, resolution, or order by a record vote for all units of property for which condemnation proceedings are to be initiated, a separate record vote must be taken for each unit of property.

(d) For the purposes of Subsections (a) and (c), if two or more units of real property are owned by the same person, the governmental entity may treat those units of property as one unit of property.

(e) The motion to adopt an ordinance, resolution, or order authorizing the initiation of condemnation proceedings under Chapter 21, Property Code, must be made in a form substantially similar to the following: "I move that the (name of governmental entity) authorize the use of the power of eminent domain to acquire (describe the property) for (describe the public use)." The description of the property required by this subsection is sufficient if the description of the location of and interest in the property that the governmental entity seeks to acquire is substantially similar to the description that is or could properly be used in a petition to condemn the property under Section 21.012, Property Code.

(f) If a project for a public use described by Section 2206.001(c)(3) will require a governmental entity to acquire multiple tracts or units of property to construct facilities connecting one location to another location, the governing body of the governmental entity may adopt a single ordinance, resolution, or order by a record vote that delegates the authority to initiate condemnation proceedings to the chief administrative official of the governmental entity.

(g) An ordinance, resolution, or order adopted under Subsection (f) is not required to identify specific properties that the governmental entity will acquire. The ordinance, resolution, or order must identify the general area to be covered by the project or the general route that will be used by the governmental entity for the project in a way that provides property owners in and around the area or along the route reasonable notice that the owners’
properties may be subject to condemnation proceedings during the planning or construction of the project.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 2, eff. September 1, 2011.

SUBCHAPTER C. EXPIRATION OF CERTAIN EMINENT DOMAIN AUTHORITY

Sec. 2206.101. REPORT OF EMINENT DOMAIN AUTHORITY; EXPIRATION OF AUTHORITY. (a) This section does not apply to an entity that was created or that acquired the power of eminent domain on or after December 31, 2012.

(b) Not later than December 31, 2012, an entity, including a private entity, authorized by the state by a general or special law to exercise the power of eminent domain shall submit to the comptroller a letter stating that the entity is authorized by the state to exercise the power of eminent domain and identifying each provision of law that grants the entity that authority. The entity must send the letter by certified mail, return receipt requested.

(c) The authority of an entity to exercise the power of eminent domain expires on September 1, 2013, unless the entity submits a letter in accordance with Subsection (b).

(d) Not later than March 1, 2013, the comptroller shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, the presiding officers of the appropriate standing committees of the senate and the house of representatives, and the Texas Legislative Council a report that contains:

(1) the name of each entity that submitted a letter in accordance with this section; and

(2) a corresponding list of the provisions granting eminent domain authority as identified by each entity that submitted a letter.

(e) The Texas Legislative Council shall prepare for consideration by the 84th Legislature, Regular Session, a nonsubstantive revision of the statutes of this state as necessary to reflect the state of the law after the expiration of an entity’s eminent domain authority effective under Subsection (c).
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 2, eff. September 1, 2011.