LSA-R.S. 19:1

§ 1. “Property” defined

As used in this part, the term “property” means immovable property, including servitudes and other rights in or to immovable property.

LSA-R.S. 19:2

§ 2. Expropriation by state or certain corporations, limited liability companies, or other legal entities

A. Prior to filing an expropriation suit, an expropriating authority shall attempt in good faith to reach an agreement as to compensation with the owner of the property sought to be taken and comply with all of the requirements of R.S. 19:2.2. If unable to reach an agreement with the owner as to compensation, any of the following may expropriate needed property:

(1) The state or its political corporations or subdivisions created for the purpose of exercising any state governmental powers.

(2) Any domestic or foreign corporation, limited liability company, or other legal entity created for, or engaged in, the construction of railroads, toll roads, or navigation canals.

(3) Any domestic or foreign corporation, limited liability company, or other legal entity created for, or engaged in, the construction or operation of street railways, urban railways, or inter-urban railways.

(4) Any domestic or foreign corporation, limited liability company, or other legal entity created for, or engaged in, the construction or operation of waterworks, filtration and treating plants, or sewerage plants to supply the public with water and sewerage.

(5) Any domestic or foreign corporation, limited liability company, or other legal entity created for, or engaged in, the piping and marketing of natural gas for the purpose of supplying the public with natural gas as a common carrier or contract carrier or any domestic or foreign corporation, limited liability company, or other legal entity which is or will be a natural gas company or an intrastate natural gas transporter as defined by federal or state law, composed entirely of such entities or composed of the wholly owned subsidiaries of such entities. As used in this Paragraph, “contract carrier” means any legal entity that transports natural gas for compensation or hire pursuant to special contract or agreement with unaffiliated third parties.

(6) Any domestic or foreign corporation, limited liability company, or other legal entity created for the purpose of, or engaged in, transmitting intelligence by telegraph or telephone.

(7) Any domestic or foreign corporation, limited liability company, or other legal entity created for the purpose of, or engaged in, generating, transmitting, and distributing or for transmitting or distributing electricity and steam for power, lighting, heating, or other such uses subject to the

following qualifications. Property located in Louisiana may be expropriated exclusively by an electric public utility as defined in R.S. 45:121 or an affiliated entity either for a transmission or generation project that is approved and included in a multistate regional transmission organization's or independent system operator's transmission expansion plan or identified by such regional transmission organization or independent system operator as necessary for the reliability of the electric system or necessary for the interconnection of a generator, or for generating plants, buildings, transmission lines, stations or substations, distribution lines, or other associated facilities if a majority of the electricity or steam power to be generated, transmitted, or distributed in connection with these intended facilities will be delivered to end-users located within Louisiana. The generating plants, buildings, transmission lines, stations, and substations expropriated or for which property was expropriated shall be so located, constructed, operated, and maintained as not to be dangerous to persons or property nor interfere with the use of the wires of other wire using companies or, more than is necessary, with the convenience of the landowners. The terms "Regional Transmission Organization" and "Independent System Operator" shall have the meanings provided by 16 U.S.C. 796. In the event that any provision or provisions of this Paragraph are declared invalid or unenforceable by any court of competent jurisdiction, the remaining terms and provisions that are not affected thereby shall remain in full force and effect.

(8) All persons included in the definition of common carrier pipelines as set forth in R.S. 45:251.

(9) Any domestic or foreign corporation, limited liability company, or other legal entity created for the purpose of, or engaged in, piping or marketing of coal or lignite in whatever form or mixture convenient for transportation within a pipeline as otherwise provided for in R.S. 30:721 through 723.

(10) Any domestic or foreign corporation, limited liability company, or other legal entity created for the purpose of, or engaged in, the piping or marketing of carbon dioxide for use in connection with a secondary or tertiary recovery project for the enhanced recovery of liquid or gaseous hydrocarbons approved by the commissioner of conservation, or created for the purpose of, or engaged in, the transportation of carbon dioxide by pipeline for underground storage, including but not limited to through connecting to an existing pipeline transporting carbon dioxide for underground storage, whether owned or operated by the same entity, and which has received a certificate of public convenience and necessity pursuant to the provisions of R.S. 30:1107(B). Property located in Louisiana may be so expropriated for the transportation of carbon dioxide for underground injection in connection with such projects located in Louisiana or in other states or jurisdictions.

(11) Any domestic or foreign corporation, limited liability company, or other legal entity created for the purpose of, or engaged in, the injection of carbon dioxide for the underground storage of carbon dioxide and that has received a certificate of public convenience and necessity pursuant to the provisions of R.S. 30:1107(A). Property located in Louisiana may be so expropriated for the underground storage of carbon dioxide in connection with such storage facility projects located in Louisiana, including but not limited to surface and subsurface rights, mineral rights, and other property interests necessary or useful for the purpose of constructing, operating, or modifying a carbon dioxide storage facility. This Paragraph shall not allow for the expropriation of reservoir storage rights for geologic storage of carbon dioxide, except in connection with any project as to which R.S. 30:1108(B)(2) is applicable. This Paragraph shall have no effect on nor does it grant expropriation of the mineral rights or other property rights associated with the approvals required for

injection of carbon dioxide into enhanced recovery projects approved by the commissioner under R.S. 30:4.

(12) Subject to any applicable limitations in this Section, any domestic or foreign corporation, limited liability company, or other legal entity created for the purpose of, or engaged in, any of the activities otherwise provided for in this Section.

(13) Any domestic corporation, any foreign corporation organized or incorporated under the laws of another state and authorized or registered to do business in this state, any limited liability company, or any other legal entity that is created for the purpose of, or that engages in, any activity involving the research, development, testing, operation, manufacture, or construction of aircraft, airports, or related aviation facilities, including but not limited to spaceflight activities, landing fields, landing strips, and navigation facilities, when the property utilized for such purposes consists of not less than twenty thousand contiguous acres and contains no residential structures.

B. No foreign power, alien, or corporation in which the majority of stock is controlled by any foreign power, alien, or alien corporation that is considered a foreign adversary as identified in 15 CFR 7.4(a) and identified in the database maintained by the United States Department of the Treasury, office of foreign assets shall expropriate property under the authority of this Section if the property to be expropriated is within fifty miles of a military base.

LSA-R.S. 19:2.1

§ 2.1. Petition for expropriation; place of filing; contents; claims for damages; prescription

A. The rights of expropriation granted in R.S. 19:2 shall be exercised in the following manner:

(1) A petition shall be filed by the plaintiff in the district court of the parish in which the property to be expropriated is situated. However, where the property to be expropriated extends into two or more parishes and the owner of the property resides in one of them, the petition shall be filed in the district court of the parish where the owner resides; but if the owner does not reside in any of the parishes into which the property extends, the petition may be filed in any of the parishes into which the property extends. In all such cases, the court wherein the petition is filed shall have jurisdiction to adjudicate as to all the property involved.

(2) The petition shall contain a statement of the purposes for which the property is to be expropriated, describing the property necessary therefor with a plan of the same, a description of the improvements thereon, if any, and the name of the owner if known.

(3) The petition shall conclude with a prayer that the property be adjudicated to the plaintiff with just compensation paid to the owner, as provided in this part.

B. All claims for property by, or for damages to the owner caused by the expropriation of property pursuant to R.S. 19:2 shall be barred by the prescription of two years commencing on the date on which the property was actually occupied and used for the purposes of the expropriation.

LSA-R.S. 19:2.2

§ 2.2. Expropriation by expropriating authorities referred to in R.S. 19:2

A. Before exercising the rights of expropriation provided by R.S. 19:2, any expropriating authority referred to in R.S. 19:2 shall comply with the following:

(1) Provide the owner whose property is to be taken with the following information from its appraisal or evaluation as to the amount of compensation due the owner for the full extent of his loss:

(a) The name, address, and qualifications of the person or persons preparing the appraisal or evaluation.

(b) The amount of compensation estimated in the appraisal or evaluation.

(c) A description of the methodology used in the appraisal or evaluation.

(2) Offer to compensate the owner a specific amount not less than the lowest appraisal or evaluation.

B. Not more than thirty days after making an offer to acquire an interest in property, if no agreement has been reached with the property owner, each expropriating authority identified in R.S. 19.2, other than the state or its political corporations or subdivisions shall provide to the property owner a notice that includes all of the following:

(1) A statement that the property owner is entitled to receive just compensation for the property to be acquired to the fullest extent allowed by law.

(2) A statement that the property may be expropriated only by an authority authorized by law to do so.

(3) A statement that the property owner is entitled to receive from the expropriating authority a written appraisal or evaluation of the amount of compensation due.

(4) A statement identifying the website of the expropriating authority where the property owner can read the expropriation statutes upon which the expropriating authority relies or a copy of the expropriation statutes upon which the expropriating authority relies.

(5) A statement offering to provide upon request of the property owner a copy of the expropriation statutes upon which the expropriating authority relies.

(6) A statement identifying an agency responsible for regulating the expropriating authority, including the name, website, and telephone number of the agency.

(7) A statement that the property owner may hire an agent or attorney to negotiate with the

expropriating authority and an attorney to represent the property owner in any legal proceedings involving the expropriation.

C. In addition to the requirements of Subsection A of this Section, each expropriating authority other than the state or its political corporations or subdivisions shall, at least thirty days prior to the filing of a petition for expropriation, send a letter by certified mail, return receipt requested, to the owner at his last known address setting forth in detail or attaching the following:

(1) The basis on which the expropriating authority exercises its power.

(2) The purpose, terms, and conditions of the proposed acquisition.

(3) The compensation to be paid for the rights sought to be acquired.

(4) A complete copy of all appraisals of, or including, the subject property previously obtained by the expropriating authority.

(5) A plat of survey signed by a Louisiana licensed surveyor illustrating the proposed location and boundary of the proposed acquisition, and any temporary servitude or workspaces. If the expropriating authority is unable to obtain access to the property for formal surveying, a plat that fairly identifies the proposed boundary and servitude may be utilized.

(6) A description and proposed location of any proposed above-ground facilities to be located on the property.

(7) A statement by the entity of considerations for the proposed route or area to be acquired.

D. Prior to exercising the rights of expropriation provided by R.S. 19:2, the state or any of its departments, offices, boards, commissions, agencies, or instrumentalities, except the Department of Transportation and Development, and except political subdivisions, but specifically including levee districts and their boards, shall, upon request of the owner whose property is to be taken, provide the owner with the results of tests by the Louisiana Geological Survey that show whether or not sand or gravel is present in the property. The test shall be done at no cost to the property owner.

LSA-R.S. 19:3

§ 3. Property not subject to expropriation

A. No graveyard or cemetery shall be expropriated unless the court finds that the route of expropriation cannot be diverted from that proposed by the plaintiff without great public loss or inconvenience. This Subsection shall not apply to a graveyard or cemetery in which no interred remains are located at the time the plaintiff makes its first offer to acquire the rights sought to be acquired.

B. No mortgage shall be expropriated. The provisions of this Subsection shall not apply to any

expropriating authority authorized by R.S. 19:2 that seeks to expropriate needed property that is subject to a mortgage. The provisions of R.S. 19:11 shall apply in such cases.

LSA-R.S. 19:4

§ 4. Trial without jury except to determine compensation

Expropriation cases shall be tried before the court without a jury, except that a party shall have the right to trial by jury to determine compensation. If the plaintiff desires a trial by jury the demand shall be made in the petition. If the defendant desires trial by jury he shall file his demand therefor within the time for filing his answer. Once any party has timely demanded a jury trial, that demand is effective against and binding upon all parties and cannot thereafter be waived without the consent of all parties.

LSA-R.S. 19:5

§ 5. Time of trial; notice to defendant

A. Upon the institution of a suit for expropriation, the trial court shall issue an order fixing the time of the trial of the suit which shall not be less than sixty days from the filing of the suit.

B. The clerk of court shall issue to the defendant, at least sixty days before the time fixed for the trial, a notice accompanied by a certified copy of the petition, copies of all exhibits, and a certified copy of the order for trial.

C. The notice shall contain the following:

(1) The date of issuance.

(2) The title of the cause.

(3) The name of the person to whom it is addressed.

(4) The title and location of the court issuing it.

(5) The date fixed for trial.

(6) A statement that the defendant must file an answer, exception, or other responsive pleading within the thirty-day period after service of citation and that failure to do so within the thirty-day period constitutes a waiver by the defendant of all defenses to the suit except claims for compensation.

LSA-R.S. 19:6

§ 6. Service of answer on plaintiff

The defendant shall file any answer, exceptions, or other responsive pleadings within thirty days after the service upon the defendant of the notice of the time fixed for the trial. The answer, exceptions, or other responsive pleadings shall be served personally or by mail on either the plaintiff or its attorney of record in the suit.

LSA-R.S. 19:7

§ 7. Failure to timely file by defendant; forfeiture of defenses

Failure of the defendant in any such suit to timely file any answer, exceptions, or other responsive pleadings constitutes a waiver by the defendant of all defenses to the suit except claims for compensation.

LSA-R.S. 19:8

§ 8. Trial with dispatch; judgment; appraisals; payment in court registry

A. (1) Expropriation suits shall be tried by preference and shall be conducted with the greatest possible dispatch. All issues shall be decided by the trial judge, except compensation when either party has demanded a trial by jury to determine compensation.

(2) Notwithstanding the provisions of R.S. 19:5, if the defendant files a timely answer, exception, or other responsive pleading challenging any issue other than compensation, the court shall set the matter for hearing within thirty days after filing of the pleading and shall render a decision within five days after the case is submitted, which time periods may be extended for good cause shown. If the court rules in favor of the expropriating authority, upon motion of either party, the trial on compensation shall be set within forty-five days thereafter, which time period may be extended for good cause shown.

(3) Immediately after compensation has been determined, the plaintiff shall, upon motion of the defendant, present evidence as to the highest amount it offered the defendant for the property and severance damages, if any, prior to the trial on the merits. After hearing evidence on the issue, the court shall determine the highest amount offered. If the highest amount offered is less than the compensation awarded for the property and severance damages, if any, the court may award reasonable attorney fees to the defendant. The expropriating authority shall not be entitled to possession or ownership of the property until a final judgment has been rendered and payment has been made to the owner or paid into the registry of the court, except as may otherwise be stipulated by the parties.

B. If either party has demanded a trial by jury to determine compensation, the trial shall be in accordance with the general laws regulating trial by jury, except as provided in this Part and except that in order to render any verdict, five of the jurors must concur therein. The jury shall consist of

six jurors. The judge may allow the jurors to take a concise summary into the jury room as provided in R.S. 48:451.18. The number of peremptory challenges is as provided for in R.S. 48:451.9.

C. After the trial to determine compensation the court shall render judgment against the plaintiff in the amount of the compensation determined to be due the owner.

D. The expropriating authority shall present its evidence of value first.

E. Absent an express stipulation by the parties, the plaintiff shall present a prima facie case of the public and necessary purpose of the proposed acquisition.

LSA-R.S. 19:9

§ 9. Measure of compensation; "extent of loss"

A. In determining the value of the property to be expropriated, and any damages caused to the defendant by the expropriation, the basis of compensation shall be the value which the property possessed before the contemplated improvement was proposed, without deducting therefrom any general or specific benefits derived by the owner from the contemplated improvement or work.

B. The defendant shall be compensated to the full extent of his loss. The court shall include in its consideration the difference between the rate of interest of any existing mortgage on an owner-occupied residence and the prevailing rate of interest required to obtain a mortgage on another owner-occupied residence of equal value.

LSA-R.S. 19:10

§ 10. Transfer of ownership

Payment by the plaintiff to the owner of the compensation fixed in the final judgment to be due or the deposit thereof in the registry of the court for the benefit of the persons entitled thereto entitles the plaintiff to the property rights described in the judgment of expropriation.

LSA-R.S. 19:11

§ 11. Encumbered property; distribution of price to creditors

Whenever any property encumbered with mortgages or privileges of any kind is expropriated pursuant to this part, the property passes to the person expropriating it free and clear of all encumbrances. Any amount awarded pursuant to the provisions of this part shall be paid into the court by which the expropriation is made and distributed to the mortgage and privileged creditors according to their priority.

LSA-R.S. 19:12

§ 12. Tender of true value refused; costs

If the highest amount offered prior to the filing of the expropriation suit is equal to or more than the final award, the court may, in its discretion, order the defendant to pay all or a portion of the costs of the expropriation proceedings.

LSA-R.S. 19:13

§ 13. Appeal; payment of award to owner or deposit in court as entitling plaintiff to property

No party to any expropriation proceeding shall be entitled to or granted a suspensive appeal from any order, judgment, or decree rendered in such proceeding, whether such order, judgment, or decree is on the merits, exceptions, or special pleas and defenses, or compensation, or any or all of them. The whole of the judgment, however, shall be subject to the decision of the appellate court on review under a devolutive appeal, and the delays for taking such appeal shall commence upon the signing of the judgment determining compensation. If any change in the amount awarded is made on such appeal, the plaintiff shall pay the additional assessment or recover the surplus paid.

LSA-R.S. 19:14

§ 14. Possession of property; removal of facilities; objection; waiver

A. In any case where the state or its political corporation or subdivision has actually, in good faith believing it had authority to do so, taken possession of privately owned immovable property of another, and constructed facilities upon, under, or over such property with the consent or acquiescence of the owner of the property, such owner shall be deemed to have waived his right to contest the necessity for the taking and to receive just compensation prior to the taking, but he shall be entitled to bring an action for such compensation, to be determined in accordance with the provisions of R.S. 19:9, for the taking of his property or interest therein, the just compensation to be determined as of the time of the taking of the property, or right or interest therein, and such action shall proceed as if the state, its political corporation, or subdivision had filed a petition for expropriation as provided for in R.S. 19:2.1.

B. In the case where any expropriating authority referred to in R.S. 19:2, other than the state or its political corporations or subdivisions, has actually, in good faith believing it had the authority to do so, taken possession of privately owned immovable property of another and constructed facilities upon, under, or over such property with the consent or acquiescence of the owner of the property, it shall be presumed that the owner of the property has waived his right to receive just compensation prior to the taking, and he shall be entitled only to bring an action for judicial determination of whether the taking was for a public and necessary purpose and for just compensation to be determined in accordance with R.S. 19:9, as of the time of the taking of the property, or right or interest therein, and such action shall proceed as nearly as may be as if the

expropriating authority had filed a petition for expropriation as provided for in R.S. 19:2.1.

C. The provisions of Subsection A of this Section shall apply only to privately owned immovable property over which the state or its political corporation or subdivision has exercised actual possession in good faith for ten years and has completed construction of facilities upon, under, or over such property. The provisions of this Section shall not be deemed to authorize the acquisition of any interest in privately owned immovable property adjoining such facilities, including but not limited to a servitude, right of use, or any right of passage across or access to the private immovable property adjoining such facilities.

LSA-R.S. 19:15

§ 15. Jury costs; demand by expropriating authority

If the expropriating authority has demanded a jury trial to determine compensation, the costs of the jury trial shall be assessed against the expropriating authority.

LSA-R.S. 19:16

§ 16. Expropriation by public entity; authority

Nothing in this Part shall alter or amend the authority of or the procedure for the state or its political corporations or subdivisions to expropriate property as otherwise provided by law.