

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1546

AN ACT

AMENDING TITLE 12, CHAPTER 8, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING
SECTION 12-1114.01; RELATING TO EMINENT DOMAIN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 12, chapter 8, article 2, Arizona Revised Statutes,
3 is amended by adding section 12-1114.01, to read:

4 12-1114.01. Property of the United States subject to
5 condemnation; duty of attorney general to file
6 action; exclusions

7 A. PROPERTY THAT MAY BE TAKEN UNDER THIS ARTICLE INCLUDES PROPERTY
8 POSSESSED BY THE UNITED STATES GOVERNMENT UNLESS:

9 1. THE PROPERTY WAS ACQUIRED BY THE FEDERAL GOVERNMENT WITH THE
10 CONSENT OF THE LEGISLATURE PURSUANT TO ARTICLE I, SECTION 8, CLAUSE 17,
11 CONSTITUTION OF THE UNITED STATES.

12 2. THE PROPERTY CONSISTS OF INDIAN LANDS OWNED OR HELD BY A FEDERALLY
13 RECOGNIZED INDIAN TRIBE, NATION, BAND OR COMMUNITY AS RESERVATION LANDS,
14 ALLOTMENT LANDS OR SOVEREIGN OR PROPRIETARY LANDS OR IN ANY OTHER CAPACITY.

15 B. THIS STATE SHALL BE THE PLAINTIFF DESCRIBED IN THIS ARTICLE IN AN
16 ACTION TO CONDEMN PROPERTY DESCRIBED IN SUBSECTION A. THIS STATE IS NOT
17 RESPONSIBLE FOR LEGAL ACTIONS FILED BY OTHER PERSONS OR ENTITIES.

18 C. THE ATTORNEY GENERAL SHALL FILE EMINENT DOMAIN ACTIONS ON PROPERTY
19 POSSESSED BY THE UNITED STATES GOVERNMENT DESCRIBED IN SUBSECTION A:

20 1. THAT FACILITATE THIS STATE'S ABILITY TO MANAGE, OR PROVIDE ACCESS
21 TO, OR INCREASE THE PROFITABILITY OF, THE LANDS OWNED OR HELD IN TRUST BY
22 THIS STATE FOR THE BENEFIT OF PUBLIC SCHOOLS AND OTHER INSTITUTIONS OF THIS
23 STATE CONSISTENT WITH THIS STATE'S FIDUCIARY RESPONSIBILITIES TOWARD THE
24 BENEFICIARIES OF THE TRUST LANDS.

25 2. FOR A PUBLIC USE THAT INCREASES THE ABILITY OF THIS STATE TO
26 GENERATE REVENUE.

27 D. THIS SECTION DOES NOT APPLY WITH RESPECT TO:

28 1. PROPERTY HELD BY THE UNITED STATES FOR THE BENEFIT, INCLUDING WATER
29 RIGHTS, OF A FEDERAL RECLAMATION PROJECT OR MANAGED BY A POLITICAL
30 SUBDIVISION OF THIS STATE, OR A SPECIAL TAXING DISTRICT ORGANIZED UNDER
31 TITLE 48.

32 2. PROPERTY ON WHICH PERMANENT IMPROVEMENTS ARE CONSTRUCTED OR THAT IS
33 LEGALLY ENCUMBERED.