

HOUSE BILL No. 1052

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7.6-3-2.

Synopsis: Use of eminent domain by regional development authority. Eliminates the ability of a regional development authority to acquire land by eminent domain.

Effective: July 1, 2017.

Judy

January 4, 2017, read first time and referred to Committee on Government and Regulatory Reform.



First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1052

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-7.6-3-2, AS ADDED BY P.L.232-2007,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 2. (a) A development authority may do any of the
4 following:
5 (1) Finance, improve, construct, reconstruct, renovate, purchase,
6 lease, acquire, and equip land and projects that are of regional
7 importance.
8 (2) Lease land or a project to an eligible political subdivision.
9 (3) Finance and construct additional improvements to projects or
10 other capital improvements owned by the development authority
11 and lease them to or for the benefit of an eligible political
12 subdivision.
13 (4) Construct or reconstruct highways, roads, and bridges.
14 (5) Acquire land or all or a part of one (1) or more projects from
15 an eligible political subdivision by purchase or lease and lease the
16 land or projects back to the eligible political subdivision, with any
17 additional improvements that may be made to the land or projects.



- 1 (6) Acquire all or a part of one (1) or more projects from an
2 eligible political subdivision by purchase or lease to fund or
3 refund indebtedness incurred on account of the projects to enable
4 the eligible political subdivision to make a savings in debt service
5 obligations or lease rental obligations or to obtain relief from
6 covenants that the eligible political subdivision considers to be
7 unduly burdensome.
- 8 (7) Make loans, loan guarantees, and grants or provide other
9 financial assistance to or on behalf of the following:
- 10 (A) A commuter transportation district.
11 (B) An airport authority.
12 (C) A regional transportation authority. A loan, a loan
13 guarantee, a grant, or other financial assistance under this
14 clause may be used by a regional transportation authority for
15 acquiring, improving, operating, maintaining, financing, and
16 supporting the following:
- 17 (i) Bus services (including fixed route services and flexible
18 or demand-responsive services) that are a component of a
19 public transportation system.
20 (ii) Bus terminals, stations, or facilities or other regional bus
21 authority projects.
- 22 (D) A county.
23 (E) A municipality.
- 24 (8) Provide funding to assist a railroad that is providing commuter
25 transportation services in a county containing territory included
26 in the development authority.
- 27 (9) Provide funding to assist an airport authority located in a
28 county containing territory included in the development authority
29 in the construction, reconstruction, renovation, purchase, lease,
30 acquisition, and equipping of an airport facility or airport project.
- 31 (10) Provide funding for intermodal transportation projects and
32 facilities.
- 33 (11) Provide funding for regional trails and greenways.
34 (12) Provide funding for economic development projects.
- 35 (13) Hold, use, lease, rent, purchase, acquire, and dispose of by
36 purchase, exchange, gift, bequest, grant, ~~condemnation~~, lease, or
37 sublease, on the terms and conditions determined by the
38 development authority, any real or personal property.
- 39 (14) After giving notice, enter upon any lots or lands for the
40 purpose of surveying or examining them to determine the location
41 of a project.
- 42 (15) Make or enter into all contracts and agreements necessary or



1 incidental to the performance of the development authority's
 2 duties and the execution of the development authority's powers
 3 under this article.

4 (16) Sue, be sued, plead, and be impleaded.

5 (17) Design, order, contract for, construct, reconstruct, and
 6 renovate a project or improvements to a project.

7 (18) Appoint an executive director and employ appraisers, real
 8 estate experts, engineers, architects, surveyors, attorneys,
 9 accountants, auditors, clerks, construction managers, and any
 10 consultants or employees that are necessary or desired by the
 11 development authority in exercising its powers or carrying out its
 12 duties under this article.

13 (19) Accept loans, grants, and other forms of financial assistance
 14 from the federal government, the state government, a political
 15 subdivision, or any other public or private source.

16 (20) Use the development authority's funds to match federal
 17 grants or make loans, loan guarantees, or grants to carry out the
 18 development authority's powers and duties under this article.

19 (21) Except as prohibited by law, take any action necessary to
 20 carry out this article.

21 (b) Projects funded by a development authority must be of regional
 22 importance.

23 (c) If a development authority is unable to agree with the owners,
 24 lessees, or occupants of any real property selected for the purposes of
 25 this article, the development authority may proceed under IC 32-24-1
 26 to procure the condemnation of the property. The development
 27 authority may not institute a proceeding until it has adopted a
 28 resolution that:

29 (1) describes the real property sought to be acquired and the
 30 purpose for which the real property is to be used;

31 (2) declares that the public interest and necessity require the
 32 acquisition by the development authority of the property involved;
 33 and

34 (3) sets out any other facts that the development authority
 35 considers necessary or pertinent.

36 The resolution is conclusive evidence of the public necessity of the
 37 proposed acquisition.

38 (c) After June 30, 2017, the development authority does not have
 39 the authority to exercise the power of eminent domain. However,
 40 if a development authority files a complaint to acquire property
 41 under IC 32-24-1-4 before July 1, 2017, this subsection does not
 42 affect the development authority's power to:



- 1 **(1) engage in any actions and proceedings; and**
- 2 **(2) acquire the property by eminent domain;**
- 3 **under IC 32-34-1.**

