

1 **SENATE FLOOR VERSION**

2 April 11, 2023

3 **AS AMENDED**

4 ENGROSSED HOUSE
5 BILL NO. 2191

6 By: West (Kevin), Rosecrants,
7 and Menz of the House

8 and

9 Gollihare and Bullard of
10 the Senate

11 **[eminent domain - property - compensation -
12 provisions - exception - codification - effective
13 date]**

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 27 O.S. 2021, Section 5, is
16 amended to read as follows:

17 Section 5. Any county, city, town, township, school district,
18 or board of education, or any board or official having charge of
19 cemeteries created and existing under the laws of this state, shall
20 have power to condemn lands in like manner as railroad companies,
21 for highways, rights-of-way, building sites, cemeteries, public
22 parks and other public ~~purposes~~ uses.

23 SECTION 2. AMENDATORY 27 O.S. 2021, Section 17, is
24 amended to read as follows:

1 Section 17. A. In the event that a portion of the total amount
2 of real property taken by eminent domain under the procedures set
3 forth in ~~Title 27 of the Oklahoma Statutes~~ this title for a public
4 ~~purpose~~ use as described in Section 9 of ~~Title 27 of the Oklahoma~~
5 ~~Statutes~~ this title is not used for the ~~purposes~~ uses for which it
6 was condemned or for another public use by the agency or other
7 entity which acquired the real property, the portion of the real
8 property that is not used shall be declared surplus and shall be
9 first offered for resale to the person from whom the property was
10 taken or the heirs of the person at the appraised value or the
11 original price at which the acquiring agency or entity purchased
12 that portion of the property, whichever is less.

13 B. For purposes of complying with subsection A of this section,
14 the agency or entity which acquired the real property by
15 condemnation shall notify the former landowner of the right of first
16 refusal by sending notice by certified mail, return receipt
17 requested, to the last-known address of the person as provided by
18 the person. If the mail is returned as not subject to delivery or
19 the former landowner is deceased, notice of the right of first
20 refusal shall be provided by publication in a newspaper of general
21 circulation in the community where the real property is located.
22 The notice shall contain the name of the former landowner and a
23 legal description of the surplus property. If the offer to
24 repurchase is not accepted within ninety (90) days from the date of

1 notice or if the offer to repurchase is not accepted from the date
2 the resale price on the property is determined, the property may
3 then be sold at public sale.

4 C. This section shall not apply to conveyances for
5 redevelopment under Sections 38-101 through 38-123 of Title 11 of
6 the Oklahoma Statutes.

7 SECTION 3. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 41 of Title 27, unless there is
9 created a duplication in numbering, reads as follows:

10 For the purposes of this act:

11 1. "Abandoned property" means either of the following:

12 a. a property that has been substantially unoccupied or
13 unused for any commercial or residential purpose for
14 at least one (1) year by a person with a legal or
15 equitable right to occupy the property that has been
16 cited as a public nuisance in violation of a housing,
17 maintenance, building, or property code which has not
18 been remedied within a reasonable time of not less
19 than thirty (30) days to cure the noncompliance, and
20 has had a public hearing made available to the
21 property owner. The notice of public hearing shall
22 advise the property owner of the hearing's location,
23 date and time. The hearing shall be within a

24

1 reasonable time of not less than thirty (30) days
2 after the time to cure the non-compliance ends, or

3 b. a property for which property taxes have not been paid
4 for at least two (2) years;

5 2. "Blighted property" means a structure that was inspected by
6 the appropriate government entity, cited for one or more enforceable
7 housing, maintenance, building, or property code violations which by
8 reason of dilapidation, deterioration, age, or obsolescence of the
9 structure threatens the health and safety of the occupants or the
10 public, has not been remedied within a reasonable time of not less
11 than thirty (30) days to cure the noncompliance, has had a public
12 hearing made available to the property owner, and the agency or
13 entity that wished to acquire the property by condemnation
14 determined at the public hearing that reasonable progress toward
15 curing the cited violation has not been made. The notice of the
16 public hearing shall advise the property owner of the hearing's
17 location, date, and time. The public hearing shall be within a
18 reasonable time of not less than thirty (30) days after the time to
19 cure the non-compliance ends; and

20 3. "Public use" means:

21 a. the possession, occupation, ownership, and enjoyment
22 of the land by the general public, or by a government
23 entity for use as a public highway, road, easement or
24 a right-of-way, public building, public cemetery,

1 public park, or other uses authorized in Section 5 of
2 Title 27 of the Oklahoma Statutes,

3 b. the possession, occupation, and ownership of land for
4 operations of a public utility or private entity
5 authorized by statute that serves the general public,

6 c. the remediation of a blighted property, or

7 d. the possession of an abandoned property.

8 SECTION 4. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 42 of Title 27, unless there is
10 created a duplication in numbering, reads as follows:

11 A. Private property may not be taken or damaged by a condemning
12 authority unless the taking or damage is necessary for a public use
13 and with just compensation. The public purpose or public benefit of
14 economic development, including an increase in tax base, tax
15 revenues, employment, or general economic health, does not
16 constitute a public use.

17 B. Nothing in subsection A of this section shall be construed
18 to prohibit a taking of private property for public use as defined
19 in subparagraphs a, b, c, and d of paragraph 3 of Section 3 of this
20 act because the public use also provides ancillary economic
21 benefits.

22 C. A governmental body subordinate to the state may not
23 exercise, create, extend, or expand a power of eminent domain in the
24 absence of statutory authority. Additional procedures, remedies, or

1 limitations that do not deny or diminish the substantive and
2 procedural rights and protections of property owners under this
3 section may be provided by other law, ordinance, or charter.

4 D. Nothing in this section shall be construed to apply to the
5 abatement of any public nuisance authorized under state law.

6 E. The actions and determinations of the condemnation are
7 subject to judicial review in a court proceeding.

8 SECTION 5. This act shall become effective November 1, 2024.

9 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
10 April 11, 2023 - DO PASS AS AMENDED

11
12
13
14
15
16
17
18
19
20
21
22
23
24