

1 ENGROSSED SENATE
2 BILL NO. 994

By: Dahm of the Senate

and

West (Kevin) of the House

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6 An Act relating to eminent domain; amending 27 O.S.
7 2011, Sections 5 and 17, which relate to local
8 governments and resale of surplus property;
9 conforming language; defining terms; prohibiting
10 taking of private property unless for certain uses
11 and with compensation; placing burden of proof on
12 condemning authority; granting certain rights to
13 private property owners; requiring court to strictly
14 construe certain provisions; prohibiting expansion of
15 eminent domain powers absent statutory authority;
16 providing exception; providing for codification; and
17 providing an effective date.

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

24 SECTION 1. AMENDATORY 27 O.S. 2011, Section 5, is
amended to read as follows:

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

SECTION 2. AMENDATORY 27 O.S. 2011, Section 17, is
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 property:

12 a. that has been substantially unoccupied or unused for
13 any commercial or residential purpose for at least one
14 (1) year by a person with a legal or equitable right
15 to occupy the property,

16 b. that has been cited for housing, maintenance, building
17 or property code violations that have not been
18 remedied within a reasonable time after two notices to
19 cure the noncompliance, or

20 c. for which property taxes have not been paid for at
21 least two (2) years;

22 2. "Blighted property" means a structure that meets any two (2)
23 of the following factors:
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- 1 a. was inspected by the appropriate local government and
2 cited for one or more enforceable housing,
3 maintenance, building or property code violations that
4 affect the safety of the occupants or the public
5 involving one or more of the following:
- 6 (1) a roof and roof framing element,
 - 7 (2) support walls, beams and headers,
 - 8 (3) foundation, footings and subgrade conditions,
 - 9 (4) light and ventilation,
 - 10 (5) fire protection including egress,
 - 11 (6) internal utilities including electricity, gas and
12 water,
 - 13 (7) flooring and flooring elements, or
 - 14 (8) walls, insulation and exterior envelope,
- 15 b. the satisfaction of the enforceable, cited and uncured
16 housing, maintenance, building or property code
17 violations listed in subparagraph a of this paragraph
18 cost more than fifty percent (50%) of the assessor's
19 taxable market value for the building, excluding land
20 value, for property taxes payable in the year in which
21 the condemnation is commenced,
- 22 c. the housing, maintenance or building code violations
23 have not been remedied within a reasonable time after
24 two notices to cure the noncompliance; or

1 d. was inspected and cited by the appropriate local
2 government for any violation of health and safety
3 codes; and

4 3. "Public use" means:

5 a. the possession, occupation, ownership and enjoyment of
6 the land by the general public, or by public agencies,

7 b. the possession, occupation and ownership of land
8 necessary for operations of a public utility that
9 serves the general public,

10 c. the remediation of a blighted property, or

11 d. the possession of an abandoned property.

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

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

21 B. In cases where addressing blight is the public use provided
22 by the condemning authority, the condemning authority bears the
23 burden of proving by clear and convincing evidence that:

1 1. The land, real estate, premises or other property the
2 authority seeks to acquire is required for the public use stated in
3 the petition for condemnation; and

4 2. The public use stated in the petition for condemnation
5 cannot be accomplished by using or acquiring property that offers
6 similar access with the consent of the owner of the similar property
7 without undue financial burden.

8 C. The owner of private property being condemned for blight has
9 a right to have a court determine whether private property is being
10 taken for a public or private use, to remediate an abandoned
11 property, to remediate blighted property or if such taking is
12 required to fulfill the public use as stated in the petition for
13 condemnation. The court shall strictly construe eminent domain
14 statutes in favor of the property owner and against the condemning
15 authority.

16 D. A governmental body subordinate to the state may not
17 exercise, create, extend or expand a power of eminent domain in the
18 absence of statutory authority. Additional procedures, remedies or
19 limitations that do not deny or diminish the substantive and
20 procedural rights and protections of property owners under this
21 section may be provided by other law, ordinance or charter.

22 SECTION 5. This act shall become effective November 1, 2021.
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