

2017 -- H 5852

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LC001477  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - EMINENT DOMAIN

Introduced By: Representatives Roberts, Chippendale, Morgan, Nardolillo, and  
Giarrusso

Date Introduced: March 03, 2017

Referred To: House Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 42-64.12-7 of the General Laws in Chapter 42-64.12 entitled  
2 "Eminent Domain" is hereby amended to read as follows:

3           **42-64.12-7. Restricted use of eminent domain powers.**

4           No entity subject to the provisions of the chapter shall exercise eminent powers to acquire  
5 any property for economic development purposes unless it has explicit authority to do so and  
6 unless it conforms to the provisions of this section.

7           (a) Plan. The entity shall have a plan for the proposed development, which shall be  
8 approved by the governing body of the entity prior to the initiation of any eminent domain  
9 proceeding, which plan shall set forth the purposes of the development, the intended benefits to  
10 the community, the necessary infrastructure improvements, the presence and correction of any  
11 substandard conditions and/or environmental hazards, and the parcels which will be acquired in  
12 order to effectuate the plan. In addition, the plan shall include provisions and/or analyses which  
13 can support a rational-basis determination that potential takings by eminent domain inure a  
14 preponderance of benefits, to the public with only incidental, benefits to a private party or parties.  
15 The plan shall only be adopted after public notice of not less than fourteen (14) days, a public  
16 hearing and a period for public comment of not less than thirty (30) days. Where other applicable  
17 planning requirements are established by law, those planning requirements shall not be deemed to  
18 be superceded by the requirements of this subsection, provided, that the plan prepared pursuant to  
19 such planning requirements substantially address the matter specified in this subsection and the

1 opportunity for public review and comment is no less than that provided for by this subsection.

2 (b) Notice. The entity shall give the owner(s) of property which may be acquired by  
3 eminent domain advanced notice of the potential taking and shall provide the opportunity to sell  
4 the property for a negotiated, mutually agreed upon price.

5 (c) Except for taking of temporary easements and partial takings subject to the provisions  
6 of § 42-64.12-10, no local government entity shall implement any eminent domain proceeding for  
7 economic development purposes unless the acquisition of the property by eminent domain has  
8 been approved by the city or town council, and no state government entity shall implement any  
9 eminent domain proceeding for economic development purposes unless the acquisition of the  
10 property by eminent domain has been approved by an act of the general assembly.

11 (d) The following proposed development plans shall require approval by an act of the  
12 general assembly:

13 (1) The proposed construction of any building in excess of two thousand square feet  
14 (2,000 sq. ft.):

15 (2) The proposed construction of any building or the development of any real property  
16 where the cost shall be in excess of two hundred fifty thousand dollars (\$250,000):

17 (3) The proposed construction of any low- or moderate-income housing on real property  
18 where the state intends to acquire an interest therein.

19 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would require approval by the general assembly to implement eminent domain  
2 proceedings for any proposed development plans where the building is larger than two thousand  
3 square feet (2,000 sq. ft.), costs more than two hundred fifty thousand dollars (\$250,000) or  
4 proposes construction of any low- or moderate-income housing on real property where the state  
5 intends to acquire an interest therein.

6           This act would take effect upon passage.

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