

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1038

By: Lawler

AS INTRODUCED

An Act relating to municipalities, eminent domain and railroads; amending 11 O.S. 2001, Section 22-104, which relates to the rights of municipalities; modifying the right to exercise the right of eminent domain; amending 11 O.S. 2001, Section 38-101, which relates to definitions; modifying definition; adding definition; amending 11 O.S. 2001, Section 38-102, which relates to legislative findings; modifying finding; amending 11 O.S. 2001, Section 38-108, which relates to the powers of Urban Renewal Authorities; limiting power of municipality or urban renewal authority; amending 11 O.S. 2001, Section 38-111, which relates to duties and activities of Urban Renewal Authorities; limiting the power of eminent domain; providing certain right to jury trial; amending 11 O.S. 2001, Section 40-102, which relates to the purpose of the Neighborhood Redevelopment Act; modifying statement of power of eminent domain; amending 11 O.S. 2001, Section 40-113, which relates to definitions; modifying definition; adding definition; amending 11 O.S. 2001, Section 40-115, which relates to redevelopment trusts; limiting right to exercise power of eminent domain; providing certain right to jury trial; prohibiting use of eminent domain for certain purposes; providing certain right to jury trial; prohibiting the taking of excess property; amending 66 O.S. 2001, Section 54, which relates to compensation; removing limitation; amending 66 O.S. 2001, Section 55, which relates to procedures for railroad condemnations; providing certain right to jury trial; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 22-104, is amended to read as follows:

Section 22-104. Every municipality shall have the right to:

1. Engage in any business or enterprise which may be engaged in by a person, firm, or corporation by virtue of a franchise from the municipality and to do all things necessary and proper in the discretion of the governing body of the municipality pursuant to the

authority granted to it by the Constitution and laws of this state to maintain said business or enterprise for the benefit of the municipality;

2. Acquire, own, and maintain, within or without its corporate limits, real estate for sites and rights-of-way for any municipal purpose including but not limited to public utility and public park purposes, and for the location thereon of waterworks, electric light and gas ~~plants~~ facilities and other facilities for generating or distributing energy, ports, airports, hospitals, quarantine stations, garbage reduction ~~plants~~ facilities, pipelines for the transmission and transportation of gas, water, stormwater, and sewerage, and for any ~~plant~~ facility for the manufacture of any material for public improvement purposes and public buildings;

3. Exercise the right of eminent domain for ~~any municipal purpose~~ the municipal purposes provided for in paragraph 2 of this section, within or without its corporate limits, and to establish, lay, and operate any ~~plant~~ facility or pipeline upon any land or right-of-way taken pursuant to eminent domain. Any business or profession which is affected by the right of eminent domain as exercised pursuant to the provisions of this section shall be considered as a property right of the owner thereof and proper allowance therefor shall be made;

4. Exercise the right to manufacture any material for public improvement purposes, and to barter or exchange the same for other material to be used in public improvements in the municipality, or to sell the same;

5. Issue and sell bonds subject to and by virtue of the provisions of the Constitution of this state and in the manner and form provided by law in order to raise the monies to establish and maintain public utilities, parks, and improvements;

6. Sell or lease to any consumer or corporation, within or without its boundaries, the commodities and services supplied by

such municipally owned or controlled public utility, business enterprise, or improvement and to enter into such short- or long-term contracts, agreements, and stipulations and do all things necessary and proper to further the capability of the municipality pursuant to the authority granted to it by the Oklahoma Statutes and the Constitution of this state to provide said commodities and services as may be deemed appropriate by the governing body of the municipality;

7. Lease at a stipulated rental rate any public improvement or utility from any person, firm, or corporation which will contract to furnish the same. Any such rental contract shall reserve for the municipality the option to purchase the improvement or utility in the future; and

8. Exercise powers necessary to carry out the purpose of the Local Development Act as set forth in Section 854 of Title 62 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 11 O.S. 2001, Section 38-101, is amended to read as follows:

Section 38-101. The provisions of this article shall apply to all municipalities in this state except as otherwise provided. The following terms whenever used or referred to in Sections 38-101 through 38-119 of this title shall have the following meanings, unless a different meaning is clearly indicated by the context:

1. "Authority" or "Urban Renewal Authority" shall mean a public body corporate created by Section 38-107 of this title;

2. "Public body" shall mean the state or any incorporated city, town, board, commission, authority, district, or any subdivision or public body of the state;

3. "Municipality" shall mean any incorporated city or town;

4. "Municipal governing body" shall mean the council, board of trustees, or other body duly charged with governing a municipality;

5. "Mayor" shall mean the mayor of a municipality or other officer or body having the duties customarily imposed upon the executive head of a municipality;

6. "Clerk" shall mean the clerk or other official of a municipality who is the custodian of the official records of the municipality;

7. "Federal Government" shall include the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America;

8. "Blighted area" shall mean an area ~~in which there are properties, buildings, or improvements, whether occupied or vacant, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation or open spaces; population overcrowding; improper subdivision or obsolete platting of land, inadequate parcel size; arrested economic development; improper street layout in terms of existing or projected traffic needs, traffic congestion or lack of parking or terminal facilities needed for existing or proposed land uses in the area, predominance of defective or inadequate street layouts; faulty lot layout in relation to size, adequacy, accessibility or usefulness; insanitary or unsafe conditions, deterioration of site or other improvements; diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; any one or combination of such conditions which substantially impair or arrest the sound growth of municipalities, or constitutes an economic or social liability, or which endangers life or property by fire or other causes, or is conducive to ill health, transmission of disease, mortality, juvenile delinquency, or crime and by reason thereof, is detrimental to the public health, safety, morals or welfare~~ where the presence of a majority of the following factors substantially impair or arrest the sound

development and growth of the municipality or are a menace to the public health, safety, morals or welfare:

- a. a predominance of deteriorated or deteriorating structures,
- b. predominance of defective or inadequate street layout,
- c. unsanitary or unsafe conditions,
- d. deterioration of site improvements,
- e. tax or special assessment delinquency exceeding the fair value of the land,
- f. defective or unusual conditions of title,
- g. improper subdivision or obsolete platting or land uses,
- h. the existence of conditions which endanger life or property by fire and other causes, or
- i. conditions which create economic obsolescence, or areas containing obsolete, nonfunctioning or inappropriate developed structures;

9. "Blighted property" shall mean a structure or building which itself, by reason of dilapidation, deterioration, or unsanitary or unsafe conditions, endangers life or property by fire or other causes, or is conducive to ill health, transmission of disease, mortality, juvenile delinquency, or crime and by reason thereof, is detrimental to the public health, safety, or welfare;

10. "Urban renewal project" or "redevelopment project" may include undertakings and activities of a municipality, an urban renewal authority, redevelopment corporation, person or other corporation, in an urban renewal area for the elimination and for the prevention of the development or spread of blight, and may involve clearance and redevelopment in an urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan. Such undertakings may include: (a) acquisition of a

blighted area or portions thereof; (b) demolition and removal of buildings and improvements; (c) installation, construction or reconstruction of streets, off-street parking facilities, utilities, parks, playgrounds, and other improvements necessary for carrying out in the urban renewal area the urban renewal objectives of this article in accordance with the urban renewal plan; (d) disposition of any property for uses in the urban renewal area or the leasing or retention of such property for uses in accordance with the urban renewal plan; (e) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan; or (f) acquisition of any other real property in the area where necessary to eliminate unhealthful, ~~insanitary~~ unsanitary or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities;

~~10.~~ 11. "Urban renewal area" means a blighted area within which the governing body of a municipality designates an area appropriate for an urban renewal project;

~~11.~~ 12. "Urban renewal plan" means a plan officially adopted by the municipal governing body, as it exists or is changed from time to time, for an urban renewal project, which plan shall: (a) conform to the general plan for the municipality as a whole except as provided in subsection I of Section 38-106(e) of this title; and (b) be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives respecting appropriate land uses, traffic, public transportation, public utilities,

recreational and community facilities, and other public improvements, and plans for financing the project, and plans for the relocation of families and businesses to be displaced;

~~12.~~ 13. "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, right and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise;

~~13.~~ 14. "Notes" shall mean any notes (including refunding notes), interim certificates of indebtedness, debentures or other obligations;

~~14.~~ 15. "Obligee" shall include any bondholder, agents or trustees for any bondholders, or lessor demising to the municipality property used in connection with an urban renewal project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the Urban Renewal Authority or the municipality;

~~15.~~ 16. "Person" shall mean any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and shall include any trustee, receiver, assignee, or other person acting in a similar representative capacity;

~~16.~~ 17. "Area of operation" shall mean the area within the corporate limits of the municipality;

~~17.~~ 18. "Board" or "Commission" shall mean a board, commission, department, division, office, body or other unit of the municipality;

~~18.~~ 19. "Public officer" shall mean any officer who is in charge of any department or branch of the government of a municipality relating to health, fire, building regulations, or to other activities concerning dwellings in its area of operation; and

~~19.~~ 20. "Redevelopment corporation" shall mean a corporation organized under the provisions of Section 38-117 of this title.

SECTION 3. AMENDATORY 11 O.S. 2001, Section 38-102, is amended to read as follows:

Section 38-102. It is hereby found and declared that there exists in certain municipalities blighted areas as herein defined which constitute a serious and growing menace, injurious and inimical to the public health, safety, morals and welfare of the residents of said municipalities; that the existence of such areas contributes an economic and social liability imposing onerous burdens which decrease the tax base and reduce tax revenues, substantially impairs or arrests sound urban growth, retards sound economic development, aggravates traffic problems and substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and that the prevention and elimination of blight is a matter of state policy and state concern; that the state and such municipalities shall not continue to be endangered by areas which are focal centers of disease, promote juvenile delinquency, and consume an excessive proportion of its revenue because of extra services required for police, fire, accident, hospitalization and other forms of public protection, services and facilities; that by such prevention and elimination, property values will be stabilized and tax burdens more equitably distributed, and the financial and capital resources of the state will be strengthened; that this menace can best be remedied by cooperative participation of private enterprise, municipal governing bodies and public agencies.

It is further found and declared that certain blighted areas, or portions thereof, may require acquisition, clearance, and disposition subject to use restrictions, as provided in this article, since the prevailing conditions of decay may make impracticable the reclamation of the area by conservation or

rehabilitation; that the conditions and evils hereinbefore enumerated may be eliminated, remedied or prevented; that the salvable blighted areas can be conserved and rehabilitated through appropriate public action as herein authorized, and the cooperation and voluntary action of the owners and tenants of property in such area.

It is further found and declared that the powers conferred by this article are for public uses and purposes for which public money may be expended and the power of eminent domain and police power exercised, subject to the limitations provided by law; and it is hereby declared that it is a matter of legislative determination that the provisions of this article are enacted in the public interest.

SECTION 4. AMENDATORY 11 O.S. 2001, Section 38-108, is amended to read as follows:

Section 38-108. A. Every Urban Renewal Authority within the provisions of this article shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this article, including the following powers in addition to others herein granted:

1. To undertake and carry out the urban renewal projects within its area of operation and in accordance with any urban renewal plan adopted by the municipality; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this article; and to disseminate blight and urban renewal information;

2. To provide or to arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities, or other facilities for or in connection with an urban renewal project; to install, construct, and reconstruct streets, off-street parking facilities, utilities, parks, playgrounds, and other public improvements; and to agree to

any conditions that it may deem reasonable and appropriate attached to Federal financial assistance and imposed pursuant to Federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of an urban renewal project, and to include in any contract let in connection with such a report, provisions to fulfill such of said conditions as it may deem reasonable and appropriate;

3. With the permission of the owner or occupant, to enter into any building or property in any urban renewal area within its area of operation in order to make inspections, surveys, appraisals, soundings or test borings; provided if permission be denied, to so enter for such purpose, upon reasonable notice and at reasonable times, with the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted; to acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain or otherwise, any real property, or personal property for its purposes, together with any improvements thereon; to hold, improve, clear or prepare for redevelopment any such property; to mortgage, pledge, hypothecate or otherwise encumber or dispose of any real property; to insure or provide for the insurance of any real or personal property or operations of the Authority or the municipality against any risk or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purposes of this article; provided, however, that a municipality or urban renewal authority may not exercise the power of eminent domain unless the municipality makes a separate determination that the property it seeks to acquire by eminent domain is itself a blighted property as defined in this article and that the use of eminent domain is essential because the blighted condition cannot be removed without the transfer of ownership. It is further provided that no statutory provisions with

respect to the acquisition, clearance or disposition of property by public bodies shall restrict the Authority or municipality or other public body exercising powers hereunder, in the exercise of such functions with respect to an urban renewal project, unless the Legislature shall specifically so state;

4. To invest any urban renewal project funds held in reserves or sinking funds or any such funds not required for immediate disbursement, in property or securities in which savings banks, building and loan associations or savings and loan associations may legally invest funds; to redeem such notes as have been issued pursuant to Section 38-115 of this title at the redemption price established therein or to purchase such notes at less than redemption price, all such notes so redeemed or purchased to be cancelled;

5. To borrow money and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the federal government, the state, county or other public body, or from any sources, public or private, for the purposes of this article, and to give such security as may be required and to enter into and carry out contracts in connection therewith. An Authority may include in any contract for financial assistance with the federal government for an urban renewal project such conditions imposed pursuant to federal laws as the Authority may deem reasonable and appropriate and which are not inconsistent with the purposes of this article;

6. To make or have made, within its area of operation, surveys and plans necessary to the carrying out of urban renewal plans or projects, and to contract with any person, public or private, in making and carrying out such plans. Such plans may include: (a) urban renewal plans; (b) preliminary plans outlining urban renewal activities for neighborhoods to embrace two or more urban renewal areas; (c) plans for carrying out a program of voluntary or

compulsory repair and rehabilitation of buildings and improvements;
(d) plans for the enforcement of state and local laws, codes and regulations relating to the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements; or (e) appraisals, title searches, surveys, studies, and other plans and work necessary to prepare for the undertaking of urban renewal projects;

7. To develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of blight and to apply for, accept and utilize grants of funds from the Federal Government or any other source for such purposes;

8. To prepare plans for the relocation of persons, families, business concerns and others displaced by an urban renewal project, and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payment financed by the Federal Government but not limited thereby;

9. To make such expenditures as may be necessary to carry out the purposes of this article;

10. To organize, coordinate and direct the administration of the provisions of this article as they apply to the municipality in order that the objective of remedying blighted areas and preventing the causes thereof within its area of operation may be most effectively promoted and achieved, and to establish such office or offices necessary to carry out such purposes most effectively; or

11. To exercise all or any part or combination of powers herein granted, provided that the records covering all transactions shall be open to public scrutiny and may be inspected by any person affected thereby during regular office hours and upon reasonable notice.

B. The duties, powers or authority of the Urban Renewal Authority shall not include:

1. The power to determine an area to be a blighted area and to designate such area as appropriate for an urban renewal project;

2. The power to determine a property to be a blighted property and to designate such property as appropriate for the exercise of eminent domain;

3. The power to prepare, establish, or amend a general plan for the locality as a whole;

~~3.~~ 4. The power to formulate a workable program;

~~4.~~ 5. The power to make the determinations and findings provided for in Section 38-105 and subsection E of Section 38-106 of this title;

~~5.~~ 6. The power to issue general obligation bonds;

~~6.~~ 7. The power to appropriate funds of the municipality, to levy taxes and assessments;

~~7.~~ 8. The power to zone or rezone; or

~~8.~~ 9. The power to make exceptions to zoning ordinances or building regulations of the municipality.

SECTION 5. AMENDATORY 11 O.S. 2001, Section 38-111, is amended to read as follows:

Section 38-111. A. After the adoption by the municipal governing body of an urban renewal plan and a resolution declaring that the acquisition of real property described in the plan is necessary to the execution of the plan, the Urban Renewal Authority designated as the agency to execute such plan shall have the right to acquire by condemnation or otherwise, any interest or right or combination of rights in real property, including a fee simple title thereto, necessary to the execution of the approved plan.

~~Condemnation for the urban renewal of blighted areas is declared to be a public use, and property already devoted to any other public use or acquired by the owner or his predecessor in interest by~~

~~eminent domain may be condemned for the purpose of this article~~ For the purposes of this article, the power of eminent domain is expressly limited to the acquisition of blighted property. The award of compensation for real property taken for such a project shall not be increased by reason of any increase in the value of the real property caused by the assembling, clearance, reconstruction, or proposed assembly, clearance or reconstruction in the project area. No increment of value shall accrue to such property as the result of any illegal or unlawful use thereof. No allowance shall be made for the improvements begun on real property after notice to the owner of such property or the institution of proceedings to condemn such property. Evidence shall be admissible bearing upon the ~~insanitary~~ unsanitary, unsafe, or substandard condition of the premises, or the lawful use thereof.

B. ~~Except as otherwise~~ As provided by subsection ~~C~~ A of this section, the Urban Renewal Authority shall have the right to acquire by condemnation any interest in real property, including a fee simple title thereto, which it may deem necessary for or in connection with an urban renewal project under this article.

C. If an Urban Renewal Authority intends to acquire unimproved real property pursuant to the power of condemnation authorized by this article, the Urban Renewal Authority shall specifically identify the parcels or tracts of real property which it intends to acquire through condemnation to the governing body of the municipality. The governing body of the municipality shall consider the proposed acquisition of the unimproved real property during an open meeting and shall be required to approve the proposed acquisition by a majority vote of those persons constituting the governing body of the municipality. No Urban Renewal Authority shall acquire unimproved real property by condemnation unless the acquisition has been specifically approved by the governing body of the municipality as required by this subsection. An acquisition by

an Urban Renewal Authority of unimproved real property made without the approval of the municipal governing body shall be void and notwithstanding the completion of other proceedings an action may be maintained by a person with a legal or equitable interest in the subject real property to recover title to the real property or possession of the real property or both title and possession of the real property. The procedure prescribed for railroad companies in ~~Sections~~ Section 51 et seq. of Title 66 of the Oklahoma Statutes, shall be followed in acquiring property by eminent domain.

Provided, however, a property owner whose property is being acquired pursuant to this article has the right to a jury trial on issues relating to the determination of blight used to support the exercise of the power of eminent domain. Property already devoted to public use may be acquired in like manner; provided, that no real property belonging to the state or any political subdivision thereof may be acquired without its consent.

~~F.~~ D. In the event any Urban Renewal Authority in exercising any of the powers conferred by this article makes necessary the relocation, raising, rerouting or changing the grade of or altering the construction of any railroad, common carrier or public utility property or facility, all such relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the expense of the Urban Renewal Authority, provided that the Urban Renewal Authority shall not disturb the possession or operation of any railroad, common carrier, or public utility in or to the appropriated property or facility until the relocated property or facilities are available for use and until marketable title thereto has been transferred to the railroad, common carrier or public utility.

~~F.~~ E. In any proceeding to fix or assess compensation for damages for the taking (or damaging) of property, or any interest therein, through the exercise of the power of eminent domain or

condemnation, evidence or testimony bearing upon the following matters shall be admissible and shall be considered in fixing such compensation or damages, in addition to evidence or testimony otherwise admissible:

1. Any use, condition, occupancy, or operation of such property, which is unlawful or violative of, or subject to elimination, abatement, prohibition, or correction under, any law or any ordinance or regulatory measure of the state, county, municipality, other political subdivision, or any agency thereof, in which such property is located, as being unsafe, substandard, ~~insanitary~~ unsanitary or otherwise contrary to the public health, safety, or welfare; and

2. The effect on the value of such property, or any such use, condition, occupancy, or operation, or of the elimination, abatement, prohibition, or correction of any such use, condition, occupancy, or operation.

~~G.~~ F. The foregoing testimony and evidence shall be admissible notwithstanding that no action has been taken by any public body or public officer toward the occupancy or operation. Testimony or evidence that any public officer charged with the duty or authority to do so has rendered, made or issued any judgment, decree, determination or order for the abatement, prohibition, elimination or correction of any such use, condition, occupancy, or operation shall be admissible and shall be prima facie evidence of the existence and character of such use, condition or operation.

~~H.~~ G. In any condemnation proceedings in which a jury trial is had, if the verdict of the jury exceeds the award of the court appointed commissioners, the court may award a reasonable attorney fee to the defendant or defendants, which shall be paid by the condemner.

SECTION 6. AMENDATORY 11 O.S. 2001, Section 40-102, is amended to read as follows:

Section 40-102. It is declared to be the purpose of the Neighborhood Redevelopment Act to promote, stimulate, and develop the general and economic welfare of this state and its communities and to assist in the development and redevelopment of commercial, industrial and residential neighborhoods, thus promoting the general welfare of the citizens of this state, by authorizing cities and towns to establish redevelopment trust authorities, and to authorize such authorities to undertake redevelopment activities within such neighborhoods. The powers conferred by the Neighborhood Redevelopment Act are for public uses and purposes for which public money may be expended and the power of eminent domain exercised, subject to the limitations provided by law. The necessity in the public interest for the provisions enacted as the Neighborhood Redevelopment Act is hereby declared as a matter of legislative determination. The municipal governing body may do all things necessary and proper in its discretion pursuant to the authority granted to it by the Constitution and laws of this state to redevelop and maintain its commercial, industrial and residential neighborhoods.

SECTION 7. AMENDATORY 11 O.S. 2001, Section 40-113, is amended to read as follows:

Section 40-113. The following terms, whenever used or referred to in this act, shall, unless a different intent clearly appears from the context, be constructed to have the following meaning:

1. "Blighted conditions" means conditions which, because of the presence of a majority of the following factors, substantially impair or arrest the sound development and growth of the municipality or constitute an economic or social liability or are a menace to the public health, safety, morals or welfare in its present condition and use:

- a. a ~~substantial number~~ predominance of deteriorated or deteriorating structures,

- b. predominance of defective or inadequate street layout,
- c. unsanitary or unsafe conditions,
- d. deterioration of site improvements,
- e. absentee ownership,
- f. tax or special assessment delinquency exceeding the fair value of the land,
- g. defective or unusual conditions of title,
- h. improper subdivision or obsolete platting or land uses,
- i. the existence of conditions which endanger life or property by fire and other causes, or
- j. conditions which create economic obsolescence, or areas containing obsolete, nonfunctioning or inappropriately developed structures;

2. "Blighted property" means a structure or building which itself, by reason of dilapidation, deterioration, unsanitary or unsafe conditions, endangers life or property by fire or other causes, or is conducive to ill health, transmission of disease, mortality, juvenile delinquency, or crime and by reason thereof is detrimental to the public health, safety, or welfare;

3. "Governing body" means the city council, city commission or town board of trustees;

~~3.~~ 4. "Neighborhood" means a contiguous geographic area within a city or town that is characterized by a predominant building style or function, and may apply to residential, commercial or industrial areas;

~~4.~~ 5. "Program plan" means a plan for the redevelopment of all or a portion of a redevelopment district, which the governing body of a city or town has found to contain blighted conditions, so that the clearance, replatting, rehabilitation or reconstruction thereof is necessary to effectuate the purposes of this act;

~~5.~~ 6. "Project plan" means a specific work or improvement to effectuate all or a portion of a program plan;

~~6.~~ 7. "Redevelopment" ~~shall mean~~ means the clearance, planning, construction, rehabilitation, or renovation of all or a portion of a redevelopment district, and the provision for such industrial, commercial, retail, residential or public structures and spaces as may be appropriate, including recreational and other facilities incidental or appurtenant thereto;

~~7.~~ 8. "Redevelopment district" means that portion of a city or town which the governing body of such city or town has found to contain blighted conditions;

~~8.~~ 9. "Redevelopment plan" means a plan for the redevelopment of all or a portion of a redevelopment district; and

~~9.~~ 10. "Redevelopment trust" means a public trust established in accordance with Section 176 et seq. of Title 60 of the Oklahoma Statutes which has the power to undertake redevelopment activities.

SECTION 8. AMENDATORY 11 O.S. 2001, Section 40-115, is amended to read as follows:

Section 40-115. A. A redevelopment trust shall have the right to acquire by the exercise of the power of eminent domain any real property, if that property has been determined by the governing body to be blighted property, in fee simple or other estate, which is necessary to accomplish the purposes of this act, when so approved by the governing body.

B. A redevelopment trust may exercise the power of eminent domain in the manner provided in Sections 9 through 14 of Title 27 of the Oklahoma Statutes; or it may exercise the power of eminent domain in the manner provided by any other applicable statutory provision for the exercise of the power of eminent domain. Provided, however, a property owner whose property is being acquired pursuant to this article has the right to a jury trial on issues relating to the determination of blight used to support the exercise

of the power of eminent domain. Property already devoted to a public use may be acquired in like manner, provided that no real property belonging to any city, county, public trust or the state or any political subdivision thereof may be acquired without its consent.

C. In the event of the sale or other disposition of real property of any redevelopment trust by reason of the foreclosure of any mortgage or other lien, through insolvency or bankruptcy proceedings, by order of any court of competent jurisdiction, by voluntary transfer or otherwise, the purchaser of such real property of such redevelopment trust shall continue to use, operate and maintain such real property in accordance with the provisions of any project plan.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5.1 of Title 27, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any other provision of law, no governmental entity may take private property by eminent domain and sell, lease, or otherwise transfer it to a private person, partnership, corporation, business, or any other private entity with the primary purpose being the benefit of such private entity. Provided, however, that in the event that private property taken by eminent domain is not used for the purposes for which it was condemned or for another public use, the condemning authority shall not sell such property without first offering it for sale to the person from whom the property was taken, or the person's heirs or assigns, at the price the condemning authority paid the property owner for the property or for fair market value, whichever is less. If the offer is not accepted within ninety (90) days from the date it is made, the property may be sold only by public sale.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5.2 of Title 27, unless there is created a duplication in numbering, reads as follows:

A property owner whose property is being acquired pursuant to this title has the right to a jury trial on the amount of damages and, when relevant, issues relating to blight when the determination of blight is used to support the exercise of the power of eminent domain, and the trial shall be conducted and judgment entered in the same manner as civil actions in the district court.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5.3 of Title 27, unless there is created a duplication in numbering, reads as follows:

If the acquisition by eminent domain of only part of an owner's property would leave the owner with an uneconomic remnant, the condemning entity shall offer to acquire that remnant pursuant to the provisions of Section 13 of Title 27 of the Oklahoma Statutes. Other than such acquisition of an uneconomic remnant and subject to procedures necessary to effectuate joint development and multiple use plans authorized by Section 801 et seq. of Title 60 of the Oklahoma Statutes, an entity authorized to exercise the power of eminent domain is prohibited from condemning property in excess of the amount that is necessary to fulfill its stated purpose.

SECTION 12. AMENDATORY 66 O.S. 2001, Section 54, is amended to read as follows:

Section 54. When possession is taken of property condemned, as provided herein, the owner shall be entitled to the immediate receipt of the compensation awarded, without prejudice to the right of either party to prosecute further proceedings ~~for the judicial determination of the sufficiency or insufficiency of said compensation.~~

SECTION 13. AMENDATORY 66 O.S. 2001, Section 55, is amended to read as follows:

Section 55. ~~(A)~~ A. The report of the commissioners may be reviewed by the district court, on written exceptions filed by either party, in the clerk's office within thirty (30) days after the filing of such report; and the court shall make such order therein as right and justice may require, either by confirmation, rejection or by ordering a new appraisalment on good cause shown; ~~or either.~~ Either party may within sixty (60) days after the filing of such report file with the clerk a written demand for a trial by jury on the amount of damages and issues relating to blight when the determination of blight is used to support the exercise of the power of eminent domain, in which case ~~the amount of damages shall be assessed by a jury, and the~~ such jury trial shall be conducted and judgment entered in the same manner as civil actions in the district court. If the party demanding such trial does not recover a verdict more favorable to ~~him~~ that party than the assessment of the commissioners, all costs in the district court may be taxed against ~~him~~ that party.

~~(B)~~ B. Within ten (10) days after the report of commissioners is filed, the court clerk shall forward to the attorney of record for the condemner, the attorney of record for each condemnee, and to all unrepresented condemnees, a copy of the commissioners' report and a notice stating the time limits for filing an exception or demand for jury trial as specified in ~~paragraph (A)~~ subsection A of this section. This notice shall be on a form prepared by the Court Administrator, which shall be approved by the Supreme Court, and shall be distributed to all clerks of the district court by said Court Administrator. If a party has been served by publication, the clerk shall forward a copy of the report of commissioners and notice of time limits for filing an exception or demand for jury trial to the last-known mailing address, if any, and shall cause a copy of the notice of time limits to be published in one (1) issue of a newspaper qualified to publish legal notices, as defined in Section

106 of Title 25. After issuing the notices provided herein, the court clerk shall endorse on the notice form filed in the case, the date and that a copy of the report together with the notice was mailed to each party or his attorney of record, or the date the notice was published in compliance with the provisions hereof.

~~(C)~~ C. The time limits for filing an exception and demand for jury trial, as prescribed in ~~paragraph (A)~~ subsection A of this section, shall be calculated from the date the report of the commissioners is filed in the case. On failure of the court clerk to give notice within the time prescribed in ~~paragraph (B)~~ subsection B of this section, the court, on application of any party, may extend the time for filing an exception to the report or a demand for trial by jury for a period not to exceed twenty (20) days from the date the application is heard.

~~(D)~~ D. Where the party instituting a condemnation proceeding abandons such proceeding, or where the final judgment is that the real property cannot be acquired by condemnation or if the award of the jury exceeds the award of the court-appointed commissioners by at least ten percent (10%), then the owner of any right, title or interest in the property involved may be paid such sum as in the opinion of the court will reimburse such owner for his reasonable attorney, appraisal, engineering, and expert witness fees actually incurred because of the condemnation proceeding. The sum awarded shall be paid by the party instituting the condemnation proceeding.

SECTION 14. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.