STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1772 By: Laster

AS INTRODUCED

An Act relating to eminent domain; amending 11 O.S. 2001, Section 40-109, which relates to relocation assistance; stating additional assistance; amending 27 O.S. 2001, Section 5, which relates to power of entities to condemn lands; limiting power of eminent domain; amending 27 O.S. 2001, Section 16, which relates to just compensation; modifying definition; requiring certain relocation assistance; amending 62 O.S. 2001, Section 854, as last amended by Section 2, Chapter 210, O.S.L. 2005 (62 O.S. Supp. 2005, Section 854), which relates to Local Development Act; expressing that act does not grant certain power; amending 63 O.S. 2001, Sections 1092.2 and 1094, which relate to relocation assistance; requiring certain assistance for any project that involves certain acquisition of property; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 40-109, is amended to read as follows:

Section 40-109. Before any redevelopment project shall be initiated under this act, a relocation assistance plan shall be approved by the redevelopment trust proposing to undertake the project. Such relocation assistance plan shall:

1. Provide for relocation payments to be made to persons, families and businesses who move from real property or who move personal property from real property as a result of the acquisition of the real property by the city in carrying out the provisions of this act, the plan to specify the time and manner of any such payments agreed to;

2. Provide that no persons or families residing in the project area shall be displaced unless and until there is a suitable housing unit available and ready for occupancy by such displaced person or

family at rents within their ability to pay. Such housing units shall be suitable to the needs of such displaced persons or families and must be a decent, safe, sanitary and otherwise standard dwelling;

3. Provide for the payment of any damages sustained by a retailer by reason of the liquidation of inventories necessitated by relocation; and

4. Provide for ~~conformance with requirements promulgated~~ relocation assistance equivalent to that required and allowable under the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, ~~as amended~~ 42 U.S.C.A., Section 4601 et seq., regardless of whether the project is otherwise subject to such federal Act.

SECTION 2. AMENDATORY 27 O.S. 2001, Section 5, is amended to read as follows:

Section 5. A. 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.

B. Notwithstanding any other provision of law, such public entities and any entities to whom they have delegated authority may not exercise the power of eminent domain solely for economic development.

SECTION 3. AMENDATORY 27 O.S. 2001, Section 16, is amended to read as follows:

Section 16. A. In every case wherein private property is taken or damaged for public use, the person whose property is taken or damaged shall be entitled to just compensation.

B. "Just compensation", as used in subsection A of this section, shall mean the value of the property taken, and in

addition, any injury to any part of the property not taken. Any special and direct benefits to the part of the property not taken may be offset only against any injury to the property not taken. If only a part of a tract is taken, just compensation shall be ascertained by determining the difference between the fair market value of the whole tract immediately before the taking and the fair market value of that portion left remaining immediately after the taking.

C. Any public entity exercising the power of eminent domain shall provide relocation assistance and follow procedures equivalent to those required and provided in the Federal Uniform Relocation Act, 42 USCA, Section 4601 et seq., regardless of whether the project is otherwise subject to such federal Act.

SECTION 4. AMENDATORY 62 O.S. 2001, Section 854, as last amended by Section 2, Chapter 210, O.S.L. 2005 (62 O.S. Supp. 2005, Section 854), is amended to read as follows:

Section 854. In addition to any other powers conferred by law, a city, town or county may exercise any powers necessary to carry out the purpose of this act, including power to:

1. Establish districts and create plans pursuant to the provisions of this act;

2. Cause project plans to be prepared, to approve the plans, and to implement the provisions and effectuate the purposes of the plans;

3. Cause bonds to be issued by public entities as provided for in Section 863 of this title;

4. Apportion local taxes or local fees and direct the use of local taxes and local fees for the purpose provided for in this act. Pursuant to Section 6C of Article X of the Constitution of the State of Oklahoma, a direction of apportionment may be prospective and may continue for one (1) or more years, and apportioned tax increments may be pledged beyond the current fiscal year to the repayment of

indebtedness of other public entities, notwithstanding the provisions of Section 26 of Article X of the Constitution of the State of Oklahoma or any other provisions of law;

5. Enter into any contracts or agreements determined by the governing body to be necessary or convenient to implement the provisions and effectuate the purposes of project plans;

6. Receive, from the federal government or the state, loans and grants for, or in aid of a project and to receive contributions from any other source to defray project costs;

7. Grant tax incentives or exemptions in the manner provided for in this act;

8. Acquire by purchase, donation or lease, and own, convey, lease, mortgage, or dispose of land and other property, real or personal, or rights or interests therein;

9. Clear and improve property acquired by it pursuant to the project plan and construct public facilities on it or contract for the construction, development, redevelopment, rehabilitation, remodeling, alteration, or repair of the property;

10. Cause parks, playgrounds, or schools, including capital improvements to public schools, or water, sewer, or drainage facilities or any other public improvements which it is otherwise authorized to undertake, to be laid out, constructed, or furnished in connection with the project;

11. Lay out and construct, alter, relocate, change the grade of, make specific repairs upon, or discontinue public ways and construct sidewalks in, or adjacent to, the project area;

12. Cause sidewalks, ways for vehicular travel, playgrounds, or water, sewer, or drainage facilities and similar improvements to be constructed within the project area for the particular benefit of the project area or those dwelling or working in it;

13. Adopt ordinances or resolutions or repeal or modify such ordinances or resolutions or establish exceptions to existing

ordinances and resolutions regulating the design, construction, and use of buildings;

14. Sell, mortgage, lease, transfer, or dispose of any property, or interest therein, acquired by it pursuant to the project plan for development, redevelopment, or rehabilitation in accordance with the plan, upon such terms and conditions determined by the governing body to be appropriate for achieving the objectives of the project plan; provided, in the event of disposition by lease or sublease to a lessee not entitled to a tax exemption, the improvements placed thereon shall not be entitled to a tax exemption;

15. Incur project costs;

16. Designate a public entity to exercise the powers enumerated in this section, except paragraphs 1, 4 and 7 of this section;

17. Invest project revenues as provided in this act; and

18. Do all things necessary or convenient to carry out the powers granted in this act and otherwise authorized by the laws of this state. Provided, nothing in the Local Development Act shall be construed to grant a public entity the power of eminent domain or authorize the exercise of such power.

SECTION 5. AMENDATORY 63 O.S. 2001, Section 1092.2, is amended to read as follows:

Section 1092.2 A. When any department, agency or instrumentality of the state, or any county, municipality, or other political subdivision of the state, or any other public or private entity subject to the provisions of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, Public Laws 91-646, and 100-17, Title IV, hereinafter referred to as the Federal Uniform Relocation Act, undertakes any project which results in the acquisition of real property or in any person being displaced from the home, business, or farm of such person, such department, agency or instrumentality of the state,

county, municipality or other political subdivision of the state, or other public or private entity ~~may~~ is hereby authorized and directed to provide relocation assistance, and make relocation payments to such displaced person and do such other acts and follow such procedures and practices as may be necessary to comply with the provisions of the Federal Uniform Relocation Act. Any public entity exercising the power of eminent domain shall provide relocation assistance and follow procedures and practices equivalent to those required under the Federal Uniform Relocation Act, regardless whether such project is otherwise subject to the requirements of such federal Act.

B. Any payment made or to be made pursuant to the ~~authority granted in~~ requirements of this section shall be for compensating or reimbursing the displaced person or owner of real property in accordance with or equivalent to the requirements of the Federal Uniform Relocation Act and such payment shall not for any purpose be deemed or considered compensation for real property acquired or compensation for damages to remaining property.

SECTION 6. AMENDATORY 63 O.S. 2001, Section 1094, is amended to read as follows:

Section 1094. Funds appropriated or otherwise available to any ~~state agency~~ entity for the acquisition of real property or any interest therein for a particular program or project shall be available also for obligation and expenditure to carry out the provisions of this act as applied to that program or project.

SECTION 7. 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.

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