

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1632

By: Schulz

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6
7 AS INTRODUCED

8 An Act relating to eminent domain; amending 11 O.S.
9 2001, Section 38-101, which relates to definitions
10 for the Urban Renewal article; modifying definition;
11 amending 11 O.S. 2001, Section 40-109, which relates
12 to relocation assistance; providing for certain
13 relocation assistance; amending 11 O.S. 2001, Section
14 40-113, which relates to definitions for the
15 Neighborhood Redevelopment Act; modifying definition;
16 amending 27 O.S. 2001, Section 16, which relates to
17 just compensation; modifying definition; requiring
18 certain relocation assistance; amending 62 O.S. 2001,
19 Section 854, as last amended by Section 2, Chapter
20 210, O.S.L. 2005 (62 O.S. Supp. 2007, Section 854),
21 which relates to Local Development Act; clarifying
22 that act does not grant certain power; amending 63
23 O.S. 2001, Sections 1092.2 and 1094, which relate to
24 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 38-101, is
amended to read as follows:

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

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

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

11 3. "Municipality" ~~shall mean~~ means any incorporated city or
12 town;

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

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

19 6. "Clerk" ~~shall mean~~ means the clerk or other official of a
20 municipality who is the custodian of the official records of the
21 municipality;

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

1 8. "Blighted area" ~~shall mean~~ means an area in which there are
2 properties, buildings, or improvements, whether occupied or vacant,
3 whether residential or nonresidential, which by reason of
4 dilapidation, deterioration, age or obsolescence, inadequate
5 provision for ventilation, light, air, sanitation or open spaces;
6 population overcrowding; improper subdivision or obsolete platting
7 of land, inadequate parcel size; arrested economic development;
8 improper street layout in terms of existing or projected traffic
9 needs, traffic congestion or lack of parking or terminal facilities
10 needed for existing or proposed land uses in the area, predominance
11 of defective or inadequate street layouts; faulty lot layout in
12 relation to size, adequacy, accessibility or usefulness; insanitary
13 or unsafe conditions, deterioration of site or other improvements;
14 diversity of ownership, tax or special assessment delinquency
15 exceeding the fair value of the land; defective or unusual
16 conditions of title; any one or combination of such conditions which
17 substantially impair or arrest the sound growth of municipalities,
18 or constitutes an economic or social liability, or which endangers
19 life or property by fire or other causes, or is conducive to ill
20 health, transmission of disease, mortality, juvenile delinquency, or
21 crime and by reason thereof, is detrimental to the public health,
22 safety, morals or welfare; except that such conditions shall not
23 constitute blight in an area primarily devoted to farming, ranching,
24 or forestry;

1 9. "Urban renewal project" or "redevelopment project" may
2 include undertakings and activities of a municipality, an urban
3 renewal authority, redevelopment corporation, person or other
4 corporation, in an urban renewal area for the elimination and for
5 the prevention of the development or spread of blight, and may
6 involve clearance and redevelopment in an urban renewal area, or
7 rehabilitation or conservation in an urban renewal area, or any
8 combination or part thereof in accordance with an urban renewal
9 plan. Such undertakings may include: ~~(a)~~

10 a. acquisition of a blighted area or portions thereof~~;~~

11 ~~(b)~~ ,

12 b. demolition and removal of buildings and improvements~~;~~

13 ~~(c)~~ ,

14 c. installation, construction or reconstruction of

15 streets, off-street parking facilities, utilities,

16 parks, playgrounds, and other improvements necessary

17 for carrying out in the urban renewal area the urban

18 renewal objectives of this article in accordance with

19 the urban renewal plan~~;~~ ~~(d)~~ ,

20 d. disposition of any property for uses in the urban

21 renewal area or the leasing or retention of such

22 property for uses in accordance with the urban renewal

23 plan~~;~~ ~~(e)~~ ,

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1 e. carrying out plans for a program of voluntary or
2 compulsory repair and rehabilitation of buildings or
3 other improvements in accordance with the urban
4 renewal plan~~+,~~ or ~~(f)~~

5 f. acquisition of any other real property in the area
6 where necessary to eliminate unhealthful, insanitary
7 or unsafe conditions, lessen density, eliminate
8 obsolete or other uses detrimental to the public
9 welfare, or otherwise to remove or prevent the spread
10 of blight or deterioration, or to provide land for
11 needed public facilities;

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

15 11. "Urban renewal plan" means a plan officially adopted by the
16 municipal governing body, as it exists or is changed from time to
17 time, for an urban renewal project, which plan shall: (a) conform
18 to the general plan for the municipality as a whole except as
19 provided in subsection I of Section 38-106(e) of this title; and (b)
20 be sufficiently complete to indicate such land acquisition,
21 demolition and removal of structures, redevelopment, improvements,
22 and rehabilitation as may be proposed to be carried out in the urban
23 renewal area, zoning and planning changes, if any, land uses,
24 maximum densities, building requirements, and the plan's

1 relationship to definite local objectives respecting appropriate
2 land uses, traffic, public transportation, public utilities,
3 recreational and community facilities, and other public
4 improvements, and plans for financing the project, and plans for the
5 relocation of families and businesses to be displaced;

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

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

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

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

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

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

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

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

14 SECTION 2. AMENDATORY 11 O.S. 2001, Section 40-109, is
15 amended to read as follows:

16 Section 40-109. Before any redevelopment project shall be
17 initiated under ~~this act~~ Section 40-101 et seq. of Title 11 of the
18 Oklahoma Statutes, a relocation assistance plan shall be approved by
19 the redevelopment trust proposing to undertake the project. Such
20 relocation assistance plan shall:

21 1. Provide for relocation payments to be made to persons,
22 families and businesses who move from real property or who move
23 personal property from real property as a result of the acquisition
24 of the real property by the city in carrying out the provisions of

1 ~~this act~~ the Neighborhood Redevelopment Act, the plan to specify the
2 time and manner of any such payments agreed to;

3 2. Provide that no persons or families residing in the project
4 area shall be displaced unless and until there is a suitable housing
5 unit available and ready for occupancy by such displaced person or
6 family at rents within their ability to pay. Such housing units
7 shall be suitable to the needs of such displaced persons or families
8 and must be a decent, safe, sanitary and otherwise standard
9 dwelling;

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

13 4. Provide for ~~conformance with requirements promulgated~~
14 relocation assistance equivalent to that required and allowable
15 under the federal Uniform Relocation Assistance and Real Property
16 Acquisition Policies Act of 1970, as amended 42 U.S. Code, Section
17 4601 et seq., regardless of whether the project is otherwise subject
18 to such federal act.

19 SECTION 3. AMENDATORY 11 O.S. 2001, Section 40-113, is
20 amended to read as follows:

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

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1 1. "Blighted conditions" means conditions which, except in an
2 area primarily devoted to farming, ranching, or forestry purposes,
3 because of the presence of a majority of the following factors,
4 substantially impair or arrest the sound development and growth of
5 the municipality or constitute an economic or social liability or
6 are a menace to the public health, safety, morals or welfare in its
7 present condition and use:

- 8 a. a substantial number of deteriorated or deteriorating
9 structures,
- 10 b. predominance of defective or inadequate street layout,
- 11 c. unsanitary or unsafe conditions,
- 12 d. deterioration of site improvements,
- 13 e. absentee ownership,
- 14 f. tax or special assessment delinquency exceeding the
15 fair value of the land,
- 16 g. defective or unusual conditions of title,
- 17 h. improper subdivision or obsolete platting or land
18 uses,
- 19 i. the existence of conditions which endanger life or
20 property by fire and other causes, or
- 21 j. conditions which create economic obsolescence, or
22 areas containing obsolete, nonfunctioning or
23 inappropriately developed structures;

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

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

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

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

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

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

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

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

4 SECTION 4. AMENDATORY 27 O.S. 2001, Section 16, is
5 amended to read as follows:

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

9 B. "Just compensation", as used in subsection A of this
10 section, shall mean the value of the property taken, and in
11 addition, any injury to any part of the property not taken. Any
12 special and direct benefits to the part of the property not taken
13 may be offset only against any injury to the property not taken. If
14 only a part of a tract is taken, just compensation shall be
15 ascertained by determining the difference between the fair market
16 value of the whole tract immediately before the taking and the fair
17 market value of that portion left remaining immediately after the
18 taking.

19 C. Any public entity exercising the power of eminent domain
20 shall provide relocation assistance and follow procedures equivalent
21 to those required and provided in the federal Uniform Relocation
22 Assistance and Real Property Acquisition Policies Act of 1970, 42
23 U.S. Code, Section 4601 et seq., regardless of whether the project
24 is otherwise subject to such federal act.

1 SECTION 5. AMENDATORY 62 O.S. 2001, Section 854, as last
2 amended by Section 2, Chapter 210, O.S.L. 2005 (62 O.S. Supp. 2007,
3 Section 854), is amended to read as follows:

4 Section 854. In addition to any other powers conferred by law,
5 a city, town or county may exercise any powers necessary to carry
6 out the purpose of ~~this act~~ the Local Development Act, including
7 power to:

8 1. Establish districts and create plans pursuant to the
9 provisions of ~~this act~~ the Local Development Act;

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

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

15 4. Apportion local taxes or local fees and direct the use of
16 local taxes and local fees for the purpose provided for in ~~this act~~
17 the Local Development Act. Pursuant to Section 6C of Article X of
18 the Constitution of the State of Oklahoma, a direction of
19 apportionment may be prospective and may continue for one (1) or
20 more years, and apportioned tax increments may be pledged beyond the
21 current fiscal year to the repayment of indebtedness of other public
22 entities, notwithstanding the provisions of Section 26 of Article X
23 of the Constitution of the State of Oklahoma or any other provisions
24 of law;

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

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

7 7. Grant tax incentives or exemptions in the manner provided
8 for in ~~this act~~ the Local Development Act;

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

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

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

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

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

5 13. Adopt ordinances or resolutions or repeal or modify such
6 ordinances or resolutions or establish exceptions to existing
7 ordinances and resolutions regulating the design, construction, and
8 use of buildings;

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

18 15. Incur project costs;

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

21 17. Invest project revenues as provided in ~~this act~~ the Local
22 Development Act; and

23 18. Do all things necessary or convenient to carry out the
24 powers granted in ~~this act~~ the Local Development Act and otherwise

1 authorized by the laws of this state. Provided, nothing in the
2 Local Development Act shall be construed to grant a public entity
3 the power of eminent domain or authorize the exercise of such power.

4 SECTION 6. AMENDATORY 63 O.S. 2001, Section 1092.2, is
5 amended to read as follows:

6 Section 1092.2 A. When any department, agency or
7 instrumentality of the state, or any county, municipality, or other
8 political subdivision of the state, or any other public or private
9 entity subject to the provisions of the ~~Federal~~ federal Uniform
10 Relocation Assistance and Real Property Acquisition Policies Act of
11 1970, ~~as amended, Public Laws 91-646, and 100-17, Title IV~~ 42 U.S.
12 Code, Section 4601 et seq., hereinafter referred to as the Federal
13 Uniform Relocation Act, undertakes any project which results in the
14 acquisition of real property or in any person being displaced from
15 the home, business, or farm of such person, such department, agency
16 or instrumentality of the state, county, municipality or other
17 political subdivision of the state, or other public or private
18 entity ~~may~~ shall provide relocation assistance, and make relocation
19 payments to such displaced person and do such other acts and follow
20 such procedures and practices as may be necessary to comply with the
21 provisions of the ~~Federal~~ federal Uniform Relocation Assistance and
22 Real Property Acquisition Policies Act of 1970, 42 U.S. Code,
23 Section 4601 et seq.

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1 B. Any public entity exercising the power of eminent domain
2 shall provide relocation assistance and follow procedures and
3 practices equivalent to those required under the federal Uniform
4 Relocation Assistance and Real Property Acquisition Policies Act of
5 1970, 42 U.S. Code, Section 4601 et seq., regardless whether such
6 project is otherwise subject to the requirements of such federal
7 act.

8 C. Any payment made or to be made pursuant to the authority
9 ~~granted in~~ requirements of this section shall be for compensating or
10 reimbursing the displaced person or owner of real property in
11 accordance with or equivalent to the requirements of the ~~Federal~~
12 federal Uniform Relocation Assistance and Real Property Acquisition
13 Policies Act of 1970, 42 U.S. Code, Section 4601 et seq., and such
14 payment shall not for any purpose be deemed or considered
15 compensation for real property acquired or compensation for damages
16 to remaining property.

17 SECTION 7. AMENDATORY 63 O.S. 2001, Section 1094, is
18 amended to read as follows:

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

1 SECTION 8. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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