

THE HOUSE OF REPRESENTATIVES  
Monday, February 23, 2009

House Bill No. 1331

HOUSE BILL NO. 1331 - By: RITZE of the House and BROGDON of the Senate.

An Act relating to eminent domain; amending 11 O.S. 2001, Sections 38-101 and 38-111, which relate to urban renewal; modifying and adding definitions; providing exception; providing evidentiary standard when property is condemned by certain entity; requiring consent of owner when eminent domain is used for certain purposes; allowing transfer or lease to private entities in certain circumstances; amending 11 O.S. 2001, Sections 40-113 and 40-115, which relate to the Neighborhood Redevelopment Act; modifying and adding definitions; requiring consent of owner when eminent domain is used for certain purposes; allowing transfer or lease to private entities in certain circumstances; providing evidentiary standard when property is condemned by certain entity; amending 27 O.S. 2001, Sections 1 and 5, which relate to the power to condemn lands; defining terms; requiring consent of owner when eminent domain is used for certain purposes; allowing transfer or lease to private entities in certain circumstances; and providing an effective date.

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

1 SECTION 1. AMENDATORY 11 O.S. 2001, Section 38-101, is amended to read  
2 as follows:

3 Section 38-101. The provisions of this article shall apply to all municipalities in this  
4 state except as otherwise provided. The following terms whenever used or referred to in  
5 Sections 38-101 through ~~38-119~~ 38-123 of this title shall have the following meanings,  
6 unless a different meaning is clearly indicated by the context:

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

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

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

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

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

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

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

12          8. "Blighted area" ~~shall mean~~ means an area in which there are properties,  
13 buildings, or improvements, whether occupied or vacant, whether residential or  
14 nonresidential, which by reason of the following is detrimental to the public health,  
15 safety, morals or welfare of the municipality:

16           a.     dilapidation, deterioration, age or obsolescence,

17           b.     the physical condition, use or occupancy constitutes a public nuisance  
18           or attractive nuisance,

19           c.     inadequate provision for ventilation, light, air, sanitation or open  
20           spaces; or the utilities, plumbing, heating, sewerage or other facilities  
21           have been disconnected, destroyed, removed, or rendered ineffective so  
22           that the property is unfit for its intended use,

- 1            d.    population overcrowding;
- 2            e.    improper subdivision or obsolete platting of land,
- 3            f.    inadequate parcel size;
- 4            g.    vacancy or unimproved lot or parcel of ground in a predominantly  
5            built-up neighborhood, which by reason of neglect or lack of  
6            maintenance has become a place for accumulation of trash and debris,  
7            or a haven for rodents or other vermin.
- 8            h.    arrested economic development;
- 9            i.    improper street layout in terms of existing or projected traffic needs,  
10           traffic congestion or lack of parking or terminal facilities needed for  
11           existing or proposed land uses in the area, predominance of defective  
12           or inadequate street layouts; faulty lot layout in relation to size,  
13           adequacy, accessibility or usefulness;
- 14           j.    insanitary, environmentally hazardous, or unsafe conditions,  
15           deterioration of site or other improvements; vermin-infested or has  
16           been designated by the agency responsible for enforcement of the  
17           housing, building or fire codes as unfit for human habitation or use,  
18           code violations affecting health and safety that have not been  
19           substantially rehabilitated within one (1) year of the receipt of notice  
20           to rehabilitate the property,
- 21           l.    diversity of ownership,

- 1           m.     tax or special assessment delinquency exceeding the fair value of the  
2                             land;
- 3           n.     defective or unusual conditions of title;
- 4           o.     ~~abandoned or not occupied by a person with a legal or equitable right~~  
5                             ~~to occupy it and for which the condemning authority is unable to~~  
6                             ~~identify and contact the owner despite reasonable efforts, or has been~~  
7                             ~~declared abandoned by the owner including, but not limited to, an~~  
8                             ~~estate in possession of the property, and~~
- 9           p.     any one or combination of such conditions which substantially impair  
10                            or arrest the sound growth of municipalities, or constitutes an  
11                            economic or social liability, or which endangers life or property by fire  
12                            or other causes, or is conducive to ill health, transmission of disease,  
13                            mortality, juvenile delinquency, or crime ~~and by reason thereof, is~~  
14                            ~~detrimental to the public health, safety, morals or welfare;~~

15           9. “Public use” means:

- 16           a.     ~~the possession, occupation, and enjoyment of land by the general public~~  
17                            ~~or by public agencies,~~
- 18           b.     ~~the use of land for the creation or functioning of public utilities or~~  
19                            ~~common carriers, or~~
- 20           c.     ~~the use of eminent domain or condemnation:~~
- 21                            ~~(1) (a)           to remove a public nuisance,~~

- 1                   (b) to remove a structure that is beyond repair or unfit for  
2                                   human habitation or use, or  
3                   (c) to acquire abandoned property, and  
4                   (2) to eliminate a direct threat to public health and safety caused by  
5                                   the property in its current condition.

6 “Public use” does not mean a public benefit of economic development including, but not  
7 limited to, an increase in tax base, tax revenues, employment, or general economic  
8 health;

9           10. “Economic development” means any activity to increase tax revenue, tax base,  
10 employment, or general economic health, when that activity does not result in:

- 11           a. the transfer of land to public possession, occupation, and enjoyment,  
12           b. the transfer of land to a private entity that is a public utility or  
13                                   common carrier,  
14           c. the use of eminent domain to:  
15                                   (1) (a) remove a public nuisance,  
16   (b) remove a structure that is beyond repair or unfit for  
17   human habitation or use, or  
18   (c) to acquire abandoned property, and  
19                                   (2) eliminate a direct threat to public health and safety caused by  
20   the property in its current condition, or  
21           d. private entities occupying an incidental area within a publicly owned  
22                                   and occupied project;

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

8            a.     acquisition of a blighted area or portions thereof; ~~(b)~~<sub>1</sub>

9            b.     demolition and removal of buildings and improvements; ~~(c)~~<sub>1</sub>

10          c.     installation, construction or reconstruction of streets, off-street parking  
11 facilities, utilities, parks, playgrounds, and other improvements  
12 necessary for carrying out in the urban renewal area the urban  
13 renewal objectives of this article in accordance with the urban renewal  
14 plan; ~~(d)~~<sub>1</sub>

15          d.     disposition of any property for uses in the urban renewal area or the  
16 leasing or retention of such property for uses in accordance with the  
17 urban renewal plan; ~~(e)~~<sub>1</sub>

18          e.     carrying out plans for a program of voluntary or compulsory repair and  
19 rehabilitation of buildings or other improvements in accordance with  
20 the urban renewal plan; <sub>2</sub> or ~~(f)~~

21          f.     acquisition of any other real property in the area where necessary to  
22 eliminate unhealthful, insanitary or unsafe conditions, lessen density,

1 eliminate obsolete or other uses detrimental to the public welfare, or  
2 otherwise to remove or prevent the spread of blight or deterioration, or  
3 to provide land for needed public facilities;

4 ~~10.~~ 12. "Urban renewal area" means a blighted area within which the governing  
5 body of a municipality designates an area appropriate for an urban renewal project;

6 ~~11.~~ 13. "Urban renewal plan" means a plan officially adopted by the municipal  
7 governing body, as it exists or is changed from time to time, for an urban renewal project,  
8 which plan shall: ~~(a)~~

9 a. conform to the general plan for the municipality as a whole except as  
10 provided in subsection I of Section ~~38-106(e)~~ 38-106 of this title; and

11 ~~(b)~~  
12 b. be sufficiently complete to indicate such land acquisition, demolition  
13 and removal of structures, redevelopment, improvements, and  
14 rehabilitation as may be proposed to be carried out in the urban  
15 renewal area, zoning and planning changes, if any, land uses,  
16 maximum densities, building requirements, and the plan's relationship  
17 to definite local objectives respecting appropriate land uses, traffic,  
18 public transportation, public utilities, recreational and community  
19 facilities, and other public improvements, and plans for financing the  
20 project, and plans for the relocation of families and businesses to be  
21 displaced;

1       ~~12.~~ 14. "Real property" shall include all lands, including improvements and fixtures  
2 thereon, and property of any nature appurtenant thereto, or used in connection  
3 therewith, and every estate, interest, right and use, legal or equitable, therein, including  
4 terms for years and liens by way of judgment, mortgage or otherwise;

5       ~~13.~~ 15. "Notes" shall mean any notes (including refunding notes), interim  
6 certificates of indebtedness, debentures or other obligations;

7       ~~14.~~ 16. "Obligee" shall include any bondholder, agents or trustees for any  
8 bondholders, or lessor demising to the municipality property used in connection with an  
9 urban renewal project, or any assignee or assignees of such lessor's interest or any part  
10 thereof, and the Federal Government when it is a party to any contract with the Urban  
11 Renewal Authority or the municipality;

12       ~~15.~~ 17. "Person" shall mean any individual, firm, partnership, corporation,  
13 company, association, joint stock association, or body politic; and shall include any  
14 trustee, receiver, assignee, or other person acting in a similar representative capacity;

15       ~~16.~~ 18. "Area of operation" shall mean the area within the corporate limits of the  
16 municipality;

17       ~~17.~~ 19. "Board" or "Commission" shall mean a board, commission, department,  
18 division, office, body or other unit of the municipality;

19       ~~18.~~ 20. "Public officer" shall mean any officer who is in charge of any department or  
20 branch of the government of a municipality relating to health, fire, building regulations,  
21 or to other activities concerning dwellings in its area of operation; and



1        ~~19.~~ 21. "Redevelopment corporation" shall mean a corporation organized under the  
2 provisions of Section 38-117 of this title.

3        SECTION 2.    AMENDATORY    11 O.S. 2001, Section 38-111, is amended to read  
4 as follows:

5        Section 38-111. A. After the adoption by the municipal governing body of an urban  
6 renewal plan and a resolution declaring that the acquisition of real property described in  
7 the plan is necessary to the execution of the plan, the Urban Renewal Authority  
8 designated as the agency to execute ~~such~~ the plan shall have the right to acquire by  
9 condemnation or otherwise, any interest or right or combination of rights in real  
10 property, including a fee simple title thereto, necessary to the execution of the approved  
11 plan; provided, however, that neither the state nor any political subdivision thereof nor  
12 any other condemning entity shall use eminent domain or condemnation for urban  
13 renewal unless it is necessary for a public use as defined in Section 38-101 of this title.

14        Condemnation for the urban renewal of blighted areas is declared to be a public use, and  
15 property already devoted to any other public use or acquired by the owner or ~~his~~ the  
16 predecessor in interest by eminent domain may be condemned for the purpose of this  
17 article. When property is condemned and will be used by a private party, the condemnor  
18 shall establish by clear and convincing evidence that the use of eminent domain or  
19 condemnation for urban renewal complies with this section and is reasonably necessary.

20        The award of compensation for real property taken for such a project shall not be  
21 increased by reason of any increase in the value of the real property caused by the  
22 assembling, clearance, reconstruction, or proposed assembly, clearance or reconstruction

1 in the project area. No increment of value shall accrue to such property as the result of  
2 any illegal or unlawful use thereof. No allowance shall be made for the improvements  
3 begun on real property after notice to the owner of such property or the institution of  
4 proceedings to condemn such property. Evidence shall be admissible bearing upon the  
5 insanitary, unsafe, or substandard condition of the premises, or the lawful use thereof.

6 B. Except as otherwise provided by subsection C of this section, the Urban Renewal  
7 Authority shall have the right to acquire by condemnation any interest in real property,  
8 including a fee simple title thereto, which it may deem necessary for or in connection  
9 with an urban renewal project under this article; provided, however, that neither the  
10 state nor any political subdivision thereof nor any other condemning entity shall use  
11 eminent domain or condemnation for urban renewal unless it is necessary for a public  
12 use as defined in Section 38-101 of this title.

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

1 Urban Renewal Authority of unimproved real property made without the approval of the  
2 municipal governing body shall be void and notwithstanding the completion of other  
3 proceedings an action may be maintained by a person with a legal or equitable interest in  
4 the subject real property to recover title to the real property or possession of the real  
5 property or both title and possession of the real property.

6 D. If an Urban Renewal Authority, this state or any political subdivision thereof, or  
7 any other condemning entity seeks to condemn real property as provided in subsections  
8 A, B, and C of this section, then that entity shall not use eminent domain or  
9 condemnation for urban renewal to take private property without the consent of the  
10 owner to be used for private commercial enterprise, economic development, or any other  
11 private use except that property may be transferred or leased to private entities:

12 1. That are public utilities or common carriers;

13 2. That occupy an incidental area within a publicly owned and occupied project; and

14 3. If the current condition of the property poses an existing threat to public health  
15 and safety and meets the definition of “blighted area” as defined in Section 38-101 of this  
16 title.

17 The condemnor shall bear the burden of establishing by clear and convincing  
18 evidence that the property constitutes a blighted area.

19 E. The procedure prescribed for railroad companies in Sections 51 ~~et seq.~~, through  
20 66 of Title 66 of the Oklahoma Statutes, shall be followed in acquiring property by  
21 eminent domain. Property already devoted to public use may be acquired in like manner;

1 provided, that no real property belonging to the state or any political subdivision thereof  
2 may be acquired without its consent.

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

13 ~~F.~~ G. In any proceeding to fix or assess compensation for damages for the taking (or  
14 damaging) of property, or any interest therein, through the exercise of the power of  
15 eminent domain or condemnation, evidence or testimony bearing upon the following  
16 matters shall be admissible and shall be considered in fixing ~~such~~ compensation or  
17 damages, in addition to evidence or testimony otherwise admissible:

18 1. Any use, condition, occupancy, or operation of ~~such~~ the property, which is  
19 unlawful or violative of, or subject to elimination, abatement, prohibition, or correction  
20 under, any law or any ordinance or regulatory measure of the state, county, municipality,  
21 other political subdivision, or any agency thereof, in which ~~such~~ the property is located,

1 as being unsafe, substandard, insanitary or otherwise contrary to the public health,  
2 safety, or welfare; and

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

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

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

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

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

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

5           a.     physical condition, use or occupancy constitutes a public nuisance or  
6                     attractive nuisance,

7           b.     a substantial number of deteriorated or deteriorating structures,

8           ~~b. c.~~   predominance of defective or inadequate street layout,

9           ~~e.~~     ~~unsanitary~~

10          d.     insanitary, vermin-infested, environmentally hazardous conditions,  
11                     solid waste pollution or contamination, or unsafe conditions that have  
12                     resulted in a designation by the agency responsible for enforcement of  
13                     the housing, building or fire codes as unfit for human habitation or  
14                     use,

15          ~~d. e.~~   utilities, plumbing, heating, sewerage or other facilities have been  
16                     disconnected, destroyed, removed, or rendered ineffective so that the  
17                     property is unfit for its intended use,

18          f.     the property is a vacant or unimproved lot or parcel of ground in a  
19                     predominantly built-up neighborhood, which by reason of neglect or  
20                     lack of maintenance has become a place for accumulation of trash and  
21                     debris, or a haven for rodents or other vermin,

- 1           g.    code violations exist affecting health and safety that have not been  
2                    substantially rehabilitated within one (1) year of the receipt of notice  
3                    to rehabilitate from the appropriate code enforcement agency.
- 4           h.    deterioration of site improvements,
- 5           e. ~~i.~~ absentee ownership or abandonment, which is property not occupied by a  
6                    person with a legal or equitable right to occupy it and for which the  
7                    condemning authority is unable to identify and contact the owner  
8                    despite reasonable efforts or which has been declared abandoned by  
9                    the owner including, but not limited to, an estate in possession of the  
10                  property,
- 11          f. ~~j.~~ tax or special assessment delinquency exceeding the fair value of the land,
- 12          g. ~~k.~~     defective or unusual conditions of title,
- 13          h. ~~l.~~ improper subdivision or obsolete platting or land uses,
- 14          i. ~~m.~~     the existence of conditions which endanger life or property by fire and  
15                    other causes, or
- 16          j. ~~n.~~ conditions which create economic obsolescence, or areas containing obsolete,  
17                    nonfunctioning or inappropriately developed structures;
- 18          2. “Economic development” means any activity to increase tax revenue, tax base,  
19          employment, or general economic health, when that activity does not result in:
- 20                a.    the transfer of land to public possession, occupation, and enjoyment,  
21                b.    the transfer of land to a private entity that is a public utility or  
22                    common carrier.

1           c.     the use of eminent domain to:  
2                 (1) (a) remove a public nuisance,  
3                         (b) remove a structure that is beyond repair or unfit for  
4                                 human habitation or use, or  
5                         (c) acquire abandoned property, and  
6                 (2) eliminate a direct threat to public health and safety caused by  
7                         the property in its current condition, or  
8           d.     private entities occupying an incidental area within a publicly owned  
9                         and occupied project;  
10         ~~3.~~ "Governing body" means the city council, city commission or town board of  
11 trustees;  
12         ~~3.~~ ~~4.~~ "Neighborhood" means a contiguous geographic area within a city or town that  
13 is characterized by a predominant building style or function, and may apply to  
14 residential, commercial or industrial areas;  
15         ~~4.~~ ~~5.~~ "Program plan" means a plan for the redevelopment of all or a portion of a  
16 redevelopment district, which the governing body of a city or town has found to contain  
17 blighted conditions, so that the clearance, replatting, rehabilitation or reconstruction  
18 thereof is necessary to effectuate the purposes of this act;  
19         ~~5.~~ ~~6.~~ "Project plan" means a specific work or improvement to effectuate all or a  
20 portion of a program plan;  
21         ~~6.~~ ~~7.~~ "Public use" means:



- 1           a.     the possession, occupation, and enjoyment of the land by the general  
2                     public, or by public agencies,
- 3           b.     the use of land for the creation or functioning of public utilities or  
4                     common carriers, or
- 5           c.     the use of eminent domain to:
- 6                     (1) (a) remove a public nuisance,  
7                             (b) remove a structure that is beyond repair or unfit for  
8                                     human habitation or use, or  
9                             (c) acquire abandoned property, and
- 10                 (2) eliminate a direct threat to public health and safety caused by  
11                             the property in its current condition.

12 “Public use” does not mean the public benefits of economic development including, but  
13 not limited to, an increase in tax base, tax revenues, employment, or general economic  
14 health;

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

20         7. 9. "Redevelopment district" means that portion of a city or town which the  
21 governing body of such city or town has found to contain blighted conditions;

1        ~~8.~~ 10. "Redevelopment plan" means a plan for the redevelopment of all or a portion  
2 of a redevelopment district; and

3        ~~9.~~ 11. "Redevelopment trust" means a public trust established in accordance with  
4 Section 176 et seq. of Title 60 of the Oklahoma Statutes which has the power to  
5 undertake redevelopment activities.

6        SECTION 4. AMENDATORY    11 O.S. 2001, Section 40-115, is amended to read  
7 as follows:

8        Section 40-115. A. A redevelopment trust shall have the right to acquire by the  
9 exercise of the power of eminent domain any real property in fee simple or other estate  
10 which is necessary to accomplish the purposes of this act, when so approved by the  
11 governing body; provided, however, that neither the state nor any political subdivision  
12 thereof nor any other condemning entity shall use eminent domain to take private  
13 property unless it is necessary for public use and shall not use eminent domain to take  
14 private property without the consent of the owner to be used for private commercial  
15 enterprise, economic development, or any other private use unless it is necessary for a  
16 public use as defined in Section 40-113 of this title. However, property may be  
17 transferred or leased to private entities:

18        1. That are common carriers or public utilities;

19        2. Who exercise the power of eminent domain by:

20            a.    (1) removing a public nuisance,

21                    (2) removing a structure that is beyond repair or unfit for human  
22                            habitation or use, or

1                   (3) using eminent domain to acquire abandoned property, and  
2                   b. eliminating a direct threat to public health and safety caused by the  
3                   property in its current condition; or

4                   3. That occupy an incidental area within a publicly owned and occupied project.

5                   B. Whenever property is condemned and will be used by a private party, the  
6 condemnor shall establish by clear and convincing evidence that the use of eminent  
7 domain complies with this section and is reasonably necessary.

8                   C. A redevelopment trust may exercise the power of eminent domain in the manner  
9 provided in Sections 9 through 14 of Title 27 of the Oklahoma Statutes; or it may  
10 exercise the power of eminent domain in the manner provided by any other applicable  
11 statutory provision for the exercise of the power of eminent domain. Property already  
12 devoted to a public use may be acquired in like manner, provided that no real property  
13 belonging to any city, county, public trust or the state or any political subdivision thereof  
14 may be acquired without its consent.

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

21                   SECTION 5. AMENDATORY 27 O.S. 2001, Section 1, is amended to read as  
22 follows:

1 Section 1. A. The lands set apart for the use and benefit of the State of Oklahoma  
2 for public schools, for public buildings and educational institutions, either by  
3 congressional enactment or executive reservation, are hereby declared to be subject to  
4 the right of eminent domain in behalf of any public enterprises now authorized by law to  
5 condemn private property for mills, sewers, railroads, side tracks, station grounds and  
6 other municipal or corporate public uses, and all of the laws of this state with reference  
7 to the taking of private property for public use are hereby made applicable to the said  
8 lands.

9 B. For purposes of this section and Sections 2 through 16 of this title, “public use”  
10 means:

11 1. The possession, occupation, and enjoyment of the land by the general public, or  
12 by public agencies;

13 2. The use of land for the creation or functioning of public utilities or common  
14 carriers; or

15 3. The use of eminent domain to:

16 a. (1) remove a public nuisance,

17 (2) remove a structure that is beyond repair or unfit for human  
18 habitation or use, or

19 (3) acquire abandoned property, and

20 b. eliminate a direct threat to public health and safety caused by the  
21 property in its current condition.

1 “Public use” does not mean the public benefits of economic development including, but  
2 not limited to, an increase in tax base, tax revenues, employment, or general economic  
3 health.

4 SECTION 6. AMENDATORY 27 O.S. 2001, Section 5, is amended to read as  
5 follows:

6 Section 5. A. Any county, city, town, township, school district, or board of  
7 education, or any board or official having charge of cemeteries created and existing under  
8 the laws of this state, shall have power to condemn lands in like manner as railroad  
9 companies, for highways, rights-of-way, building sites, cemeteries, public parks and other  
10 public purposes; provided, however, that neither the state nor any political subdivision  
11 thereof or any other condemning entity shall use eminent domain to take private  
12 property unless it is necessary for public use and shall not use eminent domain to take  
13 private property without the consent of the owner to be used for private commercial  
14 enterprise, economic development, or any other private use except that property may be  
15 transferred or leased to private entities:

- 16 1. That are public utilities or common carriers;
- 17 2. That occupy an incidental area within a publicly owned and occupied project; or
- 18 3. If the current condition of the property poses an existing threat to public health  
19 and safety.

20 B. For purposes of this section, “economic development” means any activity to  
21 increase tax revenue, tax base, employment, or general economic health, when that  
22 activity does not result in:

- 1           1. The transfer of land to public possession, occupation, and enjoyment;  
2           2. The transfer of land to a private entity that is a public utility or common carrier;  
3           3. The use of eminent domain to:  
4                 a. (1) remove a public nuisance,  
5                         (2) remove a structure that is beyond repair or unfit for human  
6                                 habitation or use, or  
7                         (3) acquire abandoned property, and  
8                 b. eliminate a direct threat to public health and safety caused by the  
9                                 property in its current condition; or  
10           4. The transfer of land to a private entity that occupies an incidental area within a  
11 publicly owned and occupied project.

12           SECTION 7. This act shall become effective November 1, 2009.

13           COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02-19-09 - DO PASS,  
14           As Coauthored.