

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1331

By: Ritze

4
5
6 AS INTRODUCED

7 An Act relating to eminent domain; amending 11 O.S.
8 2001, Sections 38-101 and 38-111, which relate to
9 urban renewal; modifying and adding definitions;
10 providing exception; providing evidentiary standard
11 when property is condemned by certain entity;
12 requiring consent of owner when eminent domain is
13 used for certain purposes; allowing transfer or lease
14 to private entities in certain circumstances;
15 amending 11 O.S. 2001, Sections 40-113 and 40-115,
16 which relate to the Neighborhood Redevelopment Act;
17 modifying and adding definitions; requiring consent
18 of owner when eminent domain is used for certain
19 purposes; allowing transfer or lease to private
20 entities in certain circumstances; providing
21 evidentiary standard when property is condemned by
22 certain entity; amending 27 O.S. 2001, Sections 1 and
23 5, which relate to the power to condemn lands;
24 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:

SECTION 1. 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

1 following terms whenever used or referred to in Sections 38-101
2 through ~~38-119~~ 38-123 of this title shall have the following
3 meanings, unless a different meaning is clearly indicated by the
4 context:

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

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

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

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

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

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

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

24

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 the
4 following is detrimental to the public health, safety, morals or
5 welfare of the municipality:

- 6 a. dilapidation, deterioration, age or obsolescence,
- 7 b. the physical condition, use or occupancy constitutes a
8 public nuisance or attractive nuisance,
- 9 c. inadequate provision for ventilation, light, air,
10 sanitation or open spaces₊, or the utilities,
11 plumbing, heating, sewerage or other facilities have
12 been disconnected, destroyed, removed, or rendered
13 ineffective so that the property is unfit for its
14 intended use,
- 15 d. population overcrowding₊,
- 16 e. improper subdivision or obsolete platting of land,
- 17 f. inadequate parcel size₊,
- 18 g. vacancy or unimproved lot or parcel of ground in a
19 predominantly built-up neighborhood, which by reason
20 of neglect or lack of maintenance has become a place
21 for accumulation of trash and debris, or a haven for
22 rodents or other vermin,
- 23 h. arrested economic development₊,

1 the owner despite reasonable efforts, or has been
2 declared abandoned by the owner including, but not
3 limited to, an estate in possession of the property,
4 and

5 p. any one or combination of such conditions which
6 substantially impair or arrest the sound growth of
7 municipalities, or constitutes an economic or social
8 liability, or which endangers life or property by fire
9 or other causes, or is conducive to ill health,
10 transmission of disease, mortality, juvenile
11 delinquency, or crime ~~and by reason thereof, is~~
12 ~~detrimental to the public health, safety, morals or~~
13 ~~welfare;~~

14 9. "Public use" means:

15 a. the possession, occupation, and enjoyment of land by
16 the general public or by public agencies,

17 b. the use of land for the creation or functioning of
18 public utilities or common carriers, or

19 c. the use of eminent domain or condemnation:

20 (1) (a) to remove a public nuisance,

21 (b) to remove a structure that is beyond repair
22 or unfit for human habitation or use, or

23 (c) to acquire abandoned property, and
24

1 (2) to eliminate a direct threat to public health and
2 safety caused by the property in its current
3 condition.

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

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

10 a. the transfer of land to public possession, occupation,
11 and enjoyment,

12 b. the transfer of land to a private entity that is a
13 public utility or 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
17 unfit for human habitation or use, or

18 (c) to acquire abandoned property, and

19 (2) eliminate a direct threat to public health and
20 safety caused by the property in its current
21 condition, or

22 d. private entities occupying an incidental area within a
23 publicly owned and occupied project;

1 11. "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),~~

24

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~~7,~~ 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.~~ 12. "Urban renewal area" means a blighted area within which
13 the governing body of a municipality designates an area appropriate
14 for an urban renewal project;

15 ~~11.~~ 13. "Urban renewal plan" means a plan officially adopted by
16 the municipal governing body, as it exists or is changed from time
17 to time, for an urban renewal project, which plan shall: ~~(a)~~

18 a. conform to the general plan for the municipality as a
19 whole except as provided in subsection I of Section
20 ~~38-106(e)~~ 38-106 of this title~~7,~~ and ~~(b)~~

21 b. be sufficiently complete to indicate such land
22 acquisition, demolition and removal of structures,
23 redevelopment, improvements, and rehabilitation as may
24 be proposed to be carried out in the urban renewal

1 area, zoning and planning changes, if any, land uses,
2 maximum densities, building requirements, and the
3 plan's relationship to definite local objectives
4 respecting appropriate land uses, traffic, public
5 transportation, public utilities, recreational and
6 community facilities, and other public improvements,
7 and plans for financing the project, and plans for the
8 relocation of families and businesses to be displaced;

9 ~~12.~~ 14. "Real property" shall include all lands, including
10 improvements and fixtures thereon, and property of any nature
11 appurtenant thereto, or used in connection therewith, and every
12 estate, interest, right and use, legal or equitable, therein,
13 including terms for years and liens by way of judgment, mortgage or
14 otherwise;

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

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

1 ~~15.~~ 17. "Person" shall mean any individual, firm, partnership,
2 corporation, company, association, joint stock association, or body
3 politic; and shall include any trustee, receiver, assignee, or other
4 person acting in a similar representative capacity;

5 ~~16.~~ 18. "Area of operation" shall mean the area within the
6 corporate limits of the municipality;

7 ~~17.~~ 19. "Board" or "Commission" shall mean a board, commission,
8 department, division, office, body or other unit of the
9 municipality;

10 ~~18.~~ 20. "Public officer" shall mean any officer who is in
11 charge of any department or branch of the government of a
12 municipality relating to health, fire, building regulations, or to
13 other activities concerning dwellings in its area of operation; and

14 ~~19.~~ 21. "Redevelopment corporation" shall mean a corporation
15 organized under the provisions of Section 38-117 of this title.

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

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

1 title thereto, necessary to the execution of the approved plan;
2 provided, however, that neither the state nor any political
3 subdivision thereof nor any other condemning entity shall use
4 eminent domain or condemnation for urban renewal unless it is
5 necessary for a public use as defined in Section 38-101 of this
6 title. Condemnation for the urban renewal of blighted areas is
7 declared to be a public use, and property already devoted to any
8 other public use or acquired by the owner or ~~his~~ the predecessor in
9 interest by eminent domain may be condemned for the purpose of this
10 article. When property is condemned and will be used by a private
11 party, the condemnor shall establish by clear and convincing
12 evidence that the use of eminent domain or condemnation for urban
13 renewal complies with this section and is reasonably necessary. The
14 award of compensation for real property taken for such a project
15 shall not be increased by reason of any increase in the value of the
16 real property caused by the assembling, clearance, reconstruction,
17 or proposed assembly, clearance or reconstruction in the project
18 area. No increment of value shall accrue to such property as the
19 result of any illegal or unlawful use thereof. No allowance shall
20 be made for the improvements begun on real property after notice to
21 the owner of such property or the institution of proceedings to
22 condemn such property. Evidence shall be admissible bearing upon
23 the insanitary, unsafe, or substandard condition of the premises, or
24 the lawful use thereof.

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

11 C. If an Urban Renewal Authority intends to acquire unimproved
12 real property pursuant to the power of condemnation authorized by
13 this article, the Urban Renewal Authority shall specifically
14 identify the parcels or tracts of real property which it intends to
15 acquire through condemnation to the governing body of the
16 municipality. The governing body of the municipality shall consider
17 the proposed acquisition of the unimproved real property during an
18 open meeting and shall be required to approve the proposed
19 acquisition by a majority vote of those persons constituting the
20 governing body of the municipality. No Urban Renewal Authority
21 shall acquire unimproved real property by condemnation unless the
22 acquisition has been specifically approved by the governing body of
23 the municipality as required by this subsection. An acquisition by
24 an Urban Renewal Authority of unimproved real property made without

1 the approval of the municipal governing body shall be void and
2 notwithstanding the completion of other proceedings an action may be
3 maintained by a person with a legal or equitable interest in the
4 subject real property to recover title to the real property or
5 possession of the real property or both title and possession of the
6 real property.

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

15 1. That are public utilities or common carriers;

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

18 3. If the current condition of the property poses an existing
19 threat to public health and safety and meets the definition of
20 "blighted area" as defined in Section 38-101 of this title.

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

23 E. The procedure prescribed for railroad companies in Sections
24 ~~51 et seq.,~~ through 66 of Title 66 of the Oklahoma Statutes, shall

1 be followed in acquiring property by eminent domain. Property
2 already devoted to public use may be acquired in like manner;
3 provided, that no real property belonging to the state or any
4 political subdivision thereof may be acquired without its consent.

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

18 ~~F.~~ G. In any proceeding to fix or assess compensation for
19 damages for the taking (or damaging) of property, or any interest
20 therein, through the exercise of the power of eminent domain or
21 condemnation, evidence or testimony bearing upon the following
22 matters shall be admissible and shall be considered in fixing ~~such~~
23 compensation or damages, in addition to evidence or testimony
24 otherwise admissible:

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

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

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

22 ~~H.~~ I. In any condemnation proceedings in which a jury trial is
23 had, if the verdict of the jury exceeds the award of the court
24 appointed commissioners, the court may award a reasonable attorney

1 fee to the defendant or defendants, which shall be paid by the
2 ~~condemner~~ condemnor.

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

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

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

14 a. physical condition, use or occupancy constitutes a
15 public nuisance or attractive nuisance,

16 b. a substantial number of deteriorated or deteriorating
17 structures,

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

19 ~~e.~~ unsanitary

20 d. insanitary, vermin-infested, environmentally hazardous
21 conditions, solid waste pollution or contamination, or
22 unsafe conditions that have resulted in a designation
23 by the agency responsible for enforcement of the
24

1 housing, building or fire codes as unfit for human
2 habitation or use,

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

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

12 g. code violations exist affecting health and safety that
13 have not been substantially rehabilitated within one
14 (1) year of the receipt of notice to rehabilitate from
15 the appropriate code enforcement agency,

16 h. deterioration of site improvements,

17 ~~e.~~ i. absentee ownership or abandonment, which is property
18 not occupied by a person with a legal or equitable
19 right to occupy it and for which the condemning
20 authority is unable to identify and contact the owner
21 despite reasonable efforts or which has been declared
22 abandoned by the owner including, but not limited to,
23 an estate in possession of the property,

- 1 ~~f.~~ j. tax or special assessment delinquency exceeding the
2 fair value of the land,
3 ~~g.~~ k. defective or unusual conditions of title,
4 ~~h.~~ l. improper subdivision or obsolete platting or land
5 uses,
6 ~~i.~~ m. the existence of conditions which endanger life or
7 property by fire and other causes, or
8 ~~j.~~ n. conditions which create economic obsolescence, or
9 areas containing obsolete, nonfunctioning or
10 inappropriately developed structures;

11 2. "Economic development" means any activity to increase tax
12 revenue, tax base, employment, or general economic health, when that
13 activity does not result in:

- 14 a. the transfer of land to public possession, occupation,
15 and enjoyment,
16 b. the transfer of land to a private entity that is a
17 public utility or common carrier,
18 c. the use of eminent domain to:
19 (1) (a) remove a public nuisance,
20 (b) remove a structure that is beyond repair or
21 unfit for human habitation or use, or
22 (c) acquire abandoned property, and
23
24

1 (2) eliminate a direct threat to public health and
2 safety caused by the property in its current
3 condition, or

4 d. private entities occupying an incidental area within a
5 publicly owned and occupied project;

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

8 ~~3-~~ 4. "Neighborhood" means a contiguous geographic area within
9 a city or town that is characterized by a predominant building style
10 or function, and may apply to residential, commercial or industrial
11 areas;

12 ~~4-~~ 5. "Program plan" means a plan for the redevelopment of all
13 or a portion of a redevelopment district, which the governing body
14 of a city or town has found to contain blighted conditions, so that
15 the clearance, replatting, rehabilitation or reconstruction thereof
16 is necessary to effectuate the purposes of this act;

17 ~~5-~~ 6. "Project plan" means a specific work or improvement to
18 effectuate all or a portion of a program plan;

19 ~~6-~~ 7. "Public use" means:

20 a. the possession, occupation, and enjoyment of the land
21 by the general public, or by public agencies,

22 b. the use of land for the creation or functioning of
23 public utilities or common carriers, or

24 c. the use of eminent domain to:

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

8 "Public use" does not mean the public benefits of economic
9 development including, but not limited to, an increase in tax base,
10 tax revenues, employment, or general economic health;

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

17 ~~7.~~ 9. "Redevelopment district" means that portion of a city or
18 town which the governing body of such city or town has found to
19 contain blighted conditions;

20 ~~8.~~ 10. "Redevelopment plan" means a plan for the redevelopment
21 of all or a portion of a redevelopment district; and

22 ~~9.~~ 11. "Redevelopment trust" means a public trust established
23 in accordance with Section 176 et seq. of Title 60 of the Oklahoma
24 Statutes which has the power to undertake redevelopment activities.

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

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

16 1. That are common carriers or public utilities;

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

18 a. (1) removing a public nuisance,

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

21 (3) using eminent domain to acquire abandoned
22 property, and

23

24

1 b. eliminating a direct threat to public health and
2 safety caused by the property in its current
3 condition; or

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

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

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

19 ~~C.~~ D. In the event of the sale or other disposition of real
20 property of any redevelopment trust by reason of the foreclosure of
21 any mortgage or other lien, through insolvency or bankruptcy
22 proceedings, by order of any court of competent jurisdiction, by
23 voluntary transfer or otherwise, the purchaser of such real property
24 of such redevelopment trust shall continue to use, operate and

1 maintain such real property in accordance with the provisions of any
2 project plan.

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

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

15 B. For purposes of this section and Sections 2 through 16 of
16 this title, "public use" means:

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

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

21 3. The use of eminent domain to:

22 a. (1) remove a public nuisance,

23 (2) remove a structure that is beyond repair or unfit

24 for human habitation or use, or

1 (3) acquire abandoned property, and

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

4 "Public use" does not mean the public benefits of economic
5 development including, but not limited to, an increase in tax base,
6 tax revenues, employment, or general economic health.

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

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

22 1. That are public utilities or common carriers;

23 2. That occupy an incidental area within a publicly owned and
24 occupied project; or

1 3. If the current condition of the property poses an existing
2 threat to public health and safety.

3 B. For purposes of this section, "economic development" means
4 any activity to increase tax revenue, tax base, employment, or
5 general economic health, when that activity does not result in:

6 1. The transfer of land to public possession, occupation, and
7 enjoyment;

8 2. The transfer of land to a private entity that is a public
9 utility or common carrier;

10 3. The use of eminent domain to:

11 a. (1) remove a public nuisance,

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

14 (3) acquire abandoned property, and

15 b. eliminate a direct threat to public health and safety
16 caused by the property in its current condition; or

17 4. The transfer of land to a private entity that occupies an
18 incidental area within a publicly owned and occupied project.

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

20
21 52-1-6477 MMP 01/07/09