

1 **SENATE FLOOR VERSION**

2 February 23, 2021

3 SENATE BILL NO. 994

By: Dahm

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5
6 An Act relating to eminent domain; amending 27 O.S.
7 2011, Sections 5 and 17, which relate to local
8 governments and resale of surplus property;
9 conforming language; defining terms; prohibiting
10 taking of private property unless for certain uses
11 and with compensation; placing burden of proof on
12 condemning authority; granting certain rights to
13 private property owners; requiring court to strictly
14 construe certain provisions; prohibiting expand of
15 eminent domain powers absent statutory authority;
16 providing exception; providing for codification; and
17 providing an effective date.

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

19 SECTION 1. AMENDATORY 27 O.S. 2011, Section 5, is
20 amended to read as follows:

21 Section 5. Any county, city, town, township, school district,
22 or board of education, or any board or official having charge of
23 cemeteries created and existing under the laws of this state, shall
24 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~~ uses.

25 SECTION 2. AMENDATORY 27 O.S. 2011, Section 17, is
26 amended to read as follows:

1 Section 17. A. In the event that a portion of the total amount
2 of real property taken by eminent domain under the procedures set
3 forth in Title 27 of the Oklahoma Statutes for a public ~~purpose~~ use
4 as described in Section 9 of ~~Title 27 of the Oklahoma Statutes~~ this
5 title is not used for the ~~purposes~~ uses for which it was condemned
6 or for another public use by the agency or other entity which
7 acquired the real property, the portion of the real property that is
8 not used shall be declared surplus and shall be first offered for
9 resale to the person from whom the property was taken or the heirs
10 of the person at the appraised value or the original price at which
11 the acquiring agency or entity purchased that portion of the
12 property, whichever is less.

13 B. For purposes of complying with subsection A of this section,
14 the agency or entity which acquired the real property by
15 condemnation shall notify the former landowner of the right of first
16 refusal by sending notice by certified mail, return receipt
17 requested, to the last-known address of the person as provided by
18 the person. If the mail is returned as not subject to delivery or
19 the former landowner is deceased, notice of the right of first
20 refusal shall be provided by publication in a newspaper of general
21 circulation in the community where the real property is located.
22 The notice shall contain the name of the former landowner and a
23 legal description of the surplus property. If the offer to
24 repurchase is not accepted within ninety (90) days from the date of

1 notice or if the offer to repurchase is not accepted from the date
2 the resale price on the property is determined, the property may
3 then be sold at public sale.

4 C. This section shall not apply to conveyances for
5 redevelopment under Sections 38-101 through 38-123 of Title 11 of
6 the Oklahoma Statutes.

7 SECTION 3. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 41 of Title 27, unless there is
9 created a duplication in numbering, reads as follows:

10 For the purposes of this act:

11 1. "Abandoned property" means property:

- 12 a. that has been substantially unoccupied or unused for
13 any commercial or residential purpose for at least one
14 (1) year by a person with a legal or equitable right
15 to occupy the property,
- 16 b. has been cited for housing, maintenance or building
17 code violations that have not been remedied within a
18 reasonable time after two notices to cure the
19 noncompliance, and
- 20 c. for which property taxes have not been paid for at
21 least two years;

22 2. "Blighted property" means a structure that:

- 23 a. was inspected by the appropriate local government and
24 cited for one or more enforceable housing,

1 maintenance, or building code violations that affect
2 the safety of the occupants or the public and involve
3 one or more of the following:

- 4 (1) a roof and roof framing element,
- 5 (2) support walls, beams and headers,
- 6 (3) foundation, footings and subgrade conditions,
- 7 (4) light and ventilation,
- 8 (5) fire protection including egress,
- 9 (6) internal utilities including electricity, gas and
10 water,
- 11 (7) flooring and flooring elements, or
- 12 (8) walls, insulation and exterior envelope,

13 b. the satisfaction of the enforceable, cited and uncured
14 housing, maintenance and building code violations
15 listed in subparagraph a of this paragraph cost more
16 than fifty percent (50%) of the assessor's taxable
17 market value for the building, excluding land value,
18 for property taxes payable in the year in which the
19 condemnation is commenced, and

20 c. the housing, maintenance or building code violations
21 have not been remedied within a reasonable time after
22 two notices to cure the noncompliance; and

23 3. "Public use" means:
24

- a. the possession, occupation, ownership and enjoyment of the land by the general public, or by public agencies,
- b. the possession, occupation and ownership of land necessary for operations of a public utility that serves the general public,
- c. the remediation of a blighted property, or
- d. the possession of an abandoned property.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 42 of Title 27, unless there is created a duplication in numbering, reads as follows:

A. Private property may not be taken or damaged by a condemning authority unless the taking or damage is necessary for a public use and with just compensation. The public purpose or public benefit of economic development including an increase in tax base, tax revenues, employment or general economic health, does not constitute a public use.

B. A condemning authority bears the burden of proving by clear and convincing evidence that:

1. The land, real estate, premises or other property the authority seeks to acquire is required for the public use in the petition for condemnation; and

2. The public use identified in the petition for condemnation cannot be accomplished by using or acquiring other property with the consent of the owner.

1 C. The owner of private property has a right to have a court
2 determine whether private property is being taken for a public or
3 private use, to remediate an abandoned property, to remediate
4 blighted property, or if such taking is required to fulfill the
5 public use as stated in the petition for condemnation. The court
6 shall strictly construe eminent domain statutes in favor of the
7 property owner and against the condemning authority.

8 D. A governmental body subordinate to the state may not
9 exercise, create, extend or expand a power of eminent domain in the
10 absence of statutory authority. Additional procedures, remedies or
11 limitations that do not deny or diminish the substantive and
12 procedural rights and protections of property owners under this
13 section may be provided by other law, ordinance or charter.

14 SECTION 5. This act shall become effective November 1, 2021.

15 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
16 February 23, 2021 - DO PASS
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