

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 994

By: Dahm

AS INTRODUCED

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

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

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

Section 5. Any county, city, town, township, school district, or board of education, or any board or official having charge of cemeteries created and existing under the laws of this state, shall have power to condemn lands in like manner as railroad companies, for highways, rights-of-way, building sites, cemeteries, public parks and other public ~~purposes~~ uses.

1       SECTION 2.       AMENDATORY       27 O.S. 2011, Section 17, is

2 amended to read as follows:

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

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

1 legal description of the surplus property. If the offer to  
2 repurchase is not accepted within ninety (90) days from the date of  
3 notice or if the offer to repurchase is not accepted from the date  
4 the resale price on the property is determined, the property may  
5 then be sold at public sale.

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

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

12 For the purposes of this act:

13 1. "Abandoned property" means property:

14 a. that has been substantially unoccupied or unused for  
15 any commercial or residential purpose for at least one  
16 (1) year by a person with a legal or equitable right  
17 to occupy the property,

18 b. has been cited for housing, maintenance or building  
19 code violations that have not been remedied within a  
20 reasonable time after two notices to cure the  
21 noncompliance, and

22 c. for which property taxes have not been paid for at  
23 least two years;

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

- 1           a.    was inspected by the appropriate local government and  
2                cited for one or more enforceable housing,  
3                maintenance, or building code violations that affect  
4                the safety of the occupants or the public and involve  
5                one or more of the following:  
6                (1)   a roof and roof framing element,  
7                (2)   support walls, beams and headers,  
8                (3)   foundation, footings and subgrade conditions,  
9                (4)   light and ventilation,  
10              (5)   fire protection including egress,  
11              (6)   internal utilities including electricity, gas and  
12                water,  
13              (7)   flooring and flooring elements, or  
14              (8)   walls, insulation and exterior envelope,  
15           b.   the satisfaction of the enforceable, cited and uncured  
16                housing, maintenance and building code violations  
17                listed in subparagraph a of this paragraph cost more  
18                than fifty percent (50%) of the assessor's taxable  
19                market value for the building, excluding land value,  
20                for property taxes payable in the year in which the  
21                condemnation is commenced, and  
22           c.    the housing, maintenance or building code violations  
23                have not been remedied within a reasonable time after  
24                two notices to cure the noncompliance; and  
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1        3. "Public use" means:

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

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

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

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

20            1. The land, real estate, premises or other property the  
21        authority seeks to acquire is required for the public use in the  
22        petition for condemnation; and  
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1        2. The public use identified in the petition for condemnation  
2 cannot be accomplished by using or acquiring other property with the  
3 consent of the owner.

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

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

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