

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 2191

By: West (Kevin)

COMMITTEE SUBSTITUTE

An Act relating to eminent domain; amending 27 O.S. 2021, 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; requiring court to strictly construe certain provisions; prohibiting expansion 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. 2021, 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.

SECTION 2. AMENDATORY 27 O.S. 2021, Section 17, is

amended to read as follows:

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

B. For purposes of complying with subsection A of this section, the agency or entity which acquired the real property by condemnation shall notify the former landowner of the right of first refusal by sending notice by certified mail, return receipt requested, to the last-known address of the person as provided by the person. If the mail is returned as not subject to delivery or the former landowner is deceased, notice of the right of first refusal shall be provided by publication in a newspaper of general circulation in the community where the real property is located. 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 either of the following:

14 a. a property that has been substantially unoccupied or
15 unused for any commercial or residential purpose for
16 at least one (1) year by a person with a legal or
17 equitable right to occupy the property that has been
18 cited as a public nuisance in violation of a housing,
19 maintenance, building, or property code which has not
20 been remedied within a reasonable time after two
21 notices to cure the noncompliance and has had a public
22 hearing and a subsequent court proceeding made
23 available to the property owner, or
24

1 b. a property for which property taxes have not been paid
2 for at least two (2) years;

3 2. "Blighted property" means a structure that was inspected by
4 the appropriate government entity, cited for one or more enforceable
5 housing, maintenance, building, or property code violations which by
6 reason of dilapidation, deterioration, age, or obsolescence of the
7 structure threatens the health and safety of the occupants or the
8 public, has not been remedied within a reasonable time after two
9 notices to cure the noncompliance, and has had a public hearing and
10 a subsequent court proceeding made available to the property owner;
11 and

12 3. "Public use" means:

13 a. the possession, occupation, ownership, and enjoyment
14 of the land by the general public, or by a government
15 entity for use as a public highway, road, easement or
16 a right-of-way, public building, public cemetery,
17 public park, or other public use,

18 b. the possession, occupation, and ownership of land
19 necessary for operations of a public utility or
20 private entity authorized by statute that serves the
21 general public,

22 c. the remediation of a blighted property, or

23 d. the possession of an abandoned property.
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1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 42 of Title 27, unless there is
3 created a duplication in numbering, reads as follows:

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

10 B. Nothing in subsection A of this section shall be construed
11 to prohibit a taking of private property for public use as defined
12 in subparagraphs a, b, c, and d of paragraph 3 of Section 3 of this
13 act because the public use also provides ancillary economic
14 benefits.

15 C. The court shall strictly construe eminent domain statutes in
16 favor of the property owner and against the condemning authority.

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

SECTION 5. This act shall become effective November 1, 2023.

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