

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2191

By: West (Kevin)

7 COMMITTEE SUBSTITUTE

8 An Act relating to eminent domain; amending 27 O.S.
9 2021, Sections 5 and 17, which relate to local
10 governments and resale of surplus property;
11 conforming language; defining terms; prohibiting
12 taking of private property unless for certain uses
13 and with compensation; requiring court to strictly
14 construe certain provisions; prohibiting expansion 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. 2021, 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. 2021, 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~~ this title for a public
4 ~~purpose~~ use as described in Section 9 of ~~Title 27 of the Oklahoma~~
5 ~~Statutes~~ this title is not used for the ~~purposes~~ uses for which it
6 was condemned or for another public use by the agency or other
7 entity which acquired the real property, the portion of the real
8 property that is not used shall be declared surplus and shall be
9 first offered for resale to the person from whom the property was
10 taken or the heirs of the person at the appraised value or the
11 original price at which the acquiring agency or entity purchased
12 that portion of the 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 either of the following:

- 12 a. a property that has been substantially unoccupied or
13 unused for any commercial or residential purpose for
14 at least one (1) year by a person with a legal or
15 equitable right to occupy the property that has been
16 cited as a public nuisance in violation of a housing,
17 maintenance, building, or property code which has not
18 been remedied within a reasonable time after two
19 notices to cure the noncompliance and has had a public
20 hearing and a subsequent court proceeding made
21 available to the property owner, or
22 b. a property for which property taxes have not been paid
23 for at least two (2) years;

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

10 3. "Public use" means:

- 11 a. the possession, occupation, ownership, and enjoyment
12 of the land by the general public, or by a government
13 entity for use as a public highway, road, easement or
14 a right-of-way, public building, public cemetery,
15 public park, or other public use,
- 16 b. the possession, occupation, and ownership of land
17 necessary for operations of a public utility or
18 private entity authorized by statute that serves the
19 general public,
- 20 c. the remediation of a blighted property, or
- 21 d. the possession of an abandoned property.

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

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

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

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

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

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

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22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL, dated
23 02/20/2023 - DO PASS, As Amended.
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