

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

HOUSE BILL 1233

By: West (Kevin)

AS INTRODUCED

An Act relating to eminent domain; defining term; 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; amending 27 O.S. 2021, Sections 5 and 17, which relate to local governments and resale of surplus property; conforming language; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 41 of Title 27, unless there is created a duplication in numbering, reads as follows:

A. As used in this act, "public use" means:

1. The possession, occupation, ownership, and enjoyment of land by the general public, or by a government entity for use as a public highway, road, easement or a right-of-way, public building, public cemetery, public park, or other uses authorized in Section 5 of Title 27 of the Oklahoma Statutes;

1 2. The possession, occupation, and ownership of land for
2 operations of a public utility or private entity authorized by
3 statute that serves the general public;

4 3. The remediation of a blighted property; or

5 4. The possession of an abandoned property.

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

12 C. Nothing in subsection B of this section shall be construed
13 to prohibit a taking of private property for public use as defined
14 in subsection A of this section because the public use also provides
15 ancillary economic benefits.

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

22 E. Nothing in this section shall be construed to apply to the
23 abatement of any public nuisance authorized under state law.

1 F. The actions and determinations of the condemnation are
2 subject to judicial review in a court proceeding.

3 SECTION 2. AMENDATORY 27 O.S. 2021, Section 5, is
4 amended to read as follows:

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

11 SECTION 3. AMENDATORY 27 O.S. 2021, Section 17, is
12 amended to read as follows:

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

1 B. For purposes of complying with subsection A of this section,
2 the agency or entity which acquired the real property by
3 condemnation shall notify the former landowner of the right of first
4 refusal by sending notice by certified mail, return receipt
5 requested, to the last-known address of the person as provided by
6 the person. If the mail is returned as not subject to delivery or
7 the former landowner is deceased, notice of the right of first
8 refusal shall be provided by publication in a newspaper of general
9 circulation in the community where the real property is located.
10 The notice shall contain the name of the former landowner and a
11 legal description of the surplus property. If the offer to
12 repurchase is not accepted within ninety (90) days from the date of
13 notice or if the offer to repurchase is not accepted from the date
14 the resale price on the property is determined, the property may
15 then be sold at public sale.

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

19 SECTION 4. This act shall become effective November 1, 2025.
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