

1 STATE OF OKLAHOMA

2 2nd Session of the 60th Legislature (2026)

3 HOUSE BILL 3968

By: Menz

6 AS INTRODUCED

7 An Act relating to eminent domain; defining term;
8 prohibiting taking of private property unless for
9 certain uses; prohibiting expansion of powers absent
10 express statutory authority; amending 27 O.S.2021,
11 Sections 5 and 17, which relate to local governments
12 and resale of surplus property; conforming language;
13 updating statutory references; providing for
14 codification; and providing an effective date.

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

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

19 A. As used in this section, and subject to subsection B of this
20 section, "public use" means:

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

1 2. The possession, occupation, and ownership of land for the
2 operations of a public utility or a private entity that is expressly
3 authorized by statute to exercise eminent domain and that serves the
4 general public.

5 B. Limitations on the Exercise of Eminent Domain. Private
6 property shall not be taken or damaged unless the taking is
7 necessary for a public use as defined in subsection A of this
8 section, and just compensation is paid. Economic development,
9 including but not limited to increased tax revenues, tax base,
10 employment, or general economic health, shall not constitute a
11 public use. No taking shall be justified or authorized on the
12 grounds that it may result in increased economic development, or
13 secondary or incidental economic benefits.

14 C. Restriction on Expansion of Eminent Domain Powers. A
15 governmental body subordinate to the state may not exercise, create,
16 extend, or expand any power of eminent domain without express
17 statutory authority. No ordinance, charter, resolution, policy, or
18 local action may broaden the definition of public use beyond the
19 uses set forth in this section.

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

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

1 have power to condemn lands in like manner as railroad companies,
2 for highways, rights-of-way, building sites, cemeteries, public
3 parks and other public purposes uses.

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

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

18 B. For purposes of complying with subsection A of this section,
19 the agency or entity which acquired the real property by
20 condemnation shall notify the former landowner of the right of first
21 refusal by sending notice by certified mail, return receipt
22 requested, to the last-known address of the person as provided by
23 the person. If the mail is returned as not subject to delivery or
24 the former landowner is deceased, notice of the right of first

1 refusal shall be provided by publication in a newspaper of general
2 circulation in the community where the real property is located.
3 The notice shall contain the name of the former landowner and a
4 legal description of the surplus property. If the offer to
5 repurchase is not accepted within ninety (90) days from the date of
6 notice or if the offer to repurchase is not accepted from the date
7 the resale price on the property is determined, the property may
8 then be sold at public sale.

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

12 SECTION 4. This act shall become effective November 1, 2026.

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