

Senate Bill 86

By: Senators Chapman of the 3rd, Williams of the 19th, Goggans of the 7th, Johnson of the 1st, Whitehead, Sr. of the 24th and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 1 of Title 22 of the Official Code of Georgia Annotated, relating to
2 general provisions applicable to eminent domain, so as to change certain provisions relating
3 to the nature of the right of eminent domain; to provide for the limitation of public purposes
4 for which eminent domain may be exercised; to provide for statutory construction; to provide
5 for legislative intent; to provide for related matters; to repeal conflicting laws; and for other
6 purposes.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

9 Chapter 1 of Title 22 of the Official Code of Georgia Annotated, relating to general
10 provisions applicable to eminent domain, is amended by striking in its entirety Code Section
11 22-1-2, relating to the nature of the right of eminent domain, and inserting in lieu thereof the
12 following:

13 "22-1-2.

14 The right of eminent domain is the right of the state, through its regular organization, to
15 reassert, either temporarily or permanently, its dominion over any portion of the soil of the
16 state on account of public exigency and for the public good. Thus, in time of war or
17 insurrection the proper authorities may possess and hold any part of the territory of the state
18 for the common safety; and in time of peace the General Assembly may authorize the
19 appropriation of the same to public purposes, such as the opening of roads, construction of
20 defenses, ~~or~~ providing channels for trade or travel, and such other public purposes as
21 defined in this Code and as limited by Code Section 22-1-9."

22 **SECTION 2.**

23 Said chapter is further amended by adding a new Code section to the end of such chapter to
24 read as follows:

1 "22-1-9.

2 (a) Pursuant to Article I, Section III, Paragraph I of the Constitution, the General
3 Assembly is authorized to determine what constitutes a public purpose with respect to the
4 power of eminent domain. A public purpose shall be as defined by general law as provided
5 by this Code, but in no event shall a public purpose be construed to include the exercise of
6 eminent domain solely or primarily for the purpose of improving tax revenue or the tax
7 base or the purpose of economic development. This shall include condemning property
8 for the purpose of transferring, leasing, or allowing the use of such property to a private
9 developer, corporation, or other entity solely or primarily to attempt to expand tax revenue,
10 increase the taxable value of the property, or promote economic development.

11 (b) To the greatest extent possible, this Code section shall be construed in accord with
12 existing statutes authorizing the power of eminent domain for purposes of community
13 redevelopment, including, but not limited to, Article 1 of Chapter 3 of Title 8, the 'Housing
14 Authorities Law'; Chapter 42 of Title 36, the 'Downtown Development Authorities Law';
15 Chapter 44 of Title 36, the 'Redevelopment Powers Law'; and Chapter 61 of Title 36, the
16 'Urban Redevelopment Law.' However, it is the intent of the General Assembly that the
17 private property rights of residents and businesses should be protected over the interests
18 of private developers and corporations. Therefore, it is further the intent of the General
19 Assembly that the power of eminent domain for purposes of community redevelopment be
20 used sparingly; and such laws shall be strictly and narrowly construed for use solely on
21 legitimate redevelopment projects. In the event of a conflict between this Code section and
22 an existing statute authorizing the power of eminent domain for purposes of community
23 redevelopment, this Code section shall control and shall be strictly construed to protect the
24 private property rights of residents and businesses over the interests of private developers
25 and corporations."

26

SECTION 3.

27 All laws and parts of laws in conflict with this Act are repealed.