

Senate Bill 391

By: Senators Chapman of the 3rd, Heath of the 31st, Hill of the 32nd, Reed of the 35th,  
Staton of the 18th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 61 of Title 36 of the Official Code of Georgia Annotated, the "Urban  
2 Redevelopment Law," so as to provide for a moratorium upon the exercise of the power of  
3 eminent domain for purposes of urban development; to provide for exceptions; to provide  
4 a statement of legislative findings and a statement of intent; to provide for conflicts and  
5 construction; to provide for severability; to provide for applicability; to provide for automatic  
6 repeal; to provide for an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 The General Assembly makes the following findings:

- 10 (1) The protection of homes, small businesses, and other private property rights against  
11 government seizures and other unreasonable government interference is a fundamental  
12 principle and core commitment of our nation's founders;
- 13 (2) It is the desire of the General Assembly and the Governor of this state to prevent  
14 municipalities, local governments, and all other entities with the power of eminent  
15 domain from infringing on the private property rights of landowners; and
- 16 (3) It is the intention of the General Assembly and the Governor of this state to enact and  
17 sign into law legislation during the 2006 legislative session to restrict the application of  
18 the United States Supreme Court's decision in *Kelo v. City of New London, Connecticut*  
19 to private property owners in Georgia.

20 **SECTION 2.**

21 Chapter 61 of Title 36 of the Official Code of Georgia Annotated, the "Urban  
22 Redevelopment Law," is amended by inserting at the end thereof a new Code section to read  
23 as follows:

1 "36-61-20.

2 (a) There is imposed a moratorium upon all boards, commissions, departments, divisions,  
3 offices, bodies, and other units of a municipality or county, agencies or urban  
4 redevelopment agencies, housing authorities, downtown development authorities, and local  
5 government bodies from exercising the power of eminent domain provided for in this  
6 chapter; provided, however, that the provisions of this Code section shall not apply to  
7 projects involving the erection of government buildings or structures or the creation of  
8 public roads.

9 (b) In the event of a conflict between this Code section and an existing statute or provision,  
10 this Code section shall control. This Code section shall be strictly construed to protect the  
11 private property rights of residents and businesses over the interests of local governments.

12 (c) This Code section shall apply to all proposed, pending, and future condemnations and  
13 shall remain in effect for a period of 120 days from the date this Code section becomes  
14 effective and upon the expiration of such 120 days this Code section shall be automatically  
15 repealed.

16 (d) In the event any part of this Code section is determined to be unconstitutional, all other  
17 parts shall remain in effect."

18 **SECTION 3.**

19 This Act shall become effective upon its approval by the Governor or upon its becoming law  
20 without such approval.

21 **SECTION 4.**

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