

Senate Bill 459

By: Senators Jones of the 10th, Seay of the 34th, Butler of the 55th, Tate of the 38th, Brown of the 26th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 8 of the Official Code of Georgia Annotated, relating to buildings and
2 housing, so as to redefine blighted areas; to provide that the condemnation of private
3 property by housing authorities must first be approved by the governing authority of the
4 county or municipality in which such property is located; to amend Chapter 1 of Title 22 of
5 the Official Code of Georgia Annotated, relating to general provisions regarding eminent
6 domain, so as to require that authorities with the power of eminent domain shall not exercise
7 such power with regard to private property without first obtaining approval by the governing
8 authority of the county or municipality in which such property is located; to amend Title 36
9 of the Official Code of Georgia Annotated, relating to local government, so as to provide that
10 county and municipal authorities with the power of eminent domain shall not exercise such
11 power with regard to private property without first obtaining approval by the governing
12 authority of the county or municipality in which such property is located; to provide for
13 related matters; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 style="text-align:center">**SECTION 1.**

16 Title 8 of the Official Code of Georgia Annotated, relating to buildings and housing, is
17 amended by striking Code Section 8-3-31, relating to the use of eminent domain by housing
18 authorities, and inserting in lieu thereof a new Code Section 8-3-31 to read as follows:

19 "8-3-31.

20 An authority shall have the right to acquire by the exercise of the power of eminent domain
21 any real property which it may deem necessary for its purposes under this article after the
22 adoption by it of a resolution declaring that the acquisition of the real property described
23 therein is necessary for such purposes and it obtains the specific approval of the governing
24 authority of the municipality in which the property to be condemned is located or, if the
25 property is not located within a municipality, by the governing authority of the county in
26 which such property is located. An authority may exercise the power of eminent domain

1 in the manner provided in Title 22; or it may exercise the power of eminent domain in the
 2 manner provided by any other applicable statutory provisions for the exercise of the power
 3 of eminent domain. Property already devoted to a public use may be acquired, except that
 4 no real property belonging to the city, the county, the state, or any political subdivision
 5 thereof may be acquired without the consent of such city, county, state, or other political
 6 subdivision."

7 **SECTION 2.**

8 Said title is further amended by striking paragraph (1) of Code Section 8-4-3, relating to
 9 definitions, and inserting in lieu thereof a new paragraph (1) to read as follows:

10 "(1) ~~'Blighted areas'~~ means:

11 ~~(A) Areas in which there is a predominance of buildings or improvements, or which~~
 12 ~~are predominantly residential in character, and which, by reason of: 'Blighted areas'~~
 13 ~~means areas in which there is a predominance of buildings or improvements, or which~~
 14 ~~are predominantly residential in character, and which, by reason of:~~

15 ~~(i)(A)~~ Dilapidation, deterioration, age, or obsolescence;

16 ~~(ii)(B)~~ Inadequate provision for ventilation, light, air, sanitation, or open spaces;

17 ~~(iii)(C)~~ High density of population and overcrowding Adverse environmental
 18 conditions;

19 ~~(iv)(D)~~ The existence of conditions which endanger life or property by fire and other
 20 causes; or

21 ~~(E)~~ The existence of public safety hazards, including traffic hazards and loitering
 22 activities;

23 ~~(F)~~ The existence of high crime rates; or

24 ~~(v)(G)~~ Any combination of such factors,

25 are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency,
 26 and crime and are detrimental to the public health, safety, morals, or welfare; and

27 ~~(B) Areas which, by reason of:~~

28 ~~(i) The predominance of defective or inadequate street layout;~~

29 ~~(ii) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;~~

30 ~~(iii) Insanitary or unsafe conditions;~~

31 ~~(iv) Deterioration of site improvements;~~

32 ~~(v) Diversity of ownership;~~

33 ~~(vi) Tax or special assessment delinquency exceeding the fair value of the land;~~

34 ~~(vii) Defective or unusual conditions of title;~~

35 ~~(viii) Improper subdivision or obsolete platting;~~

1 "22-1-4.1.
 2 Notwithstanding any provision of law to the contrary, except as otherwise provided by the
 3 Constitution, no authority of any county or municipality in this state that is authorized to
 4 exercise the power of eminent domain shall do so unless such authority first obtains the
 5 specific approval of the governing authority of the municipality in which the property to
 6 be condemned is located or, if the property is not located within a municipality, of the
 7 governing authority of the county in which such property is located."

8 **SECTION 5.**

9 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
 10 by striking subsection (c) of Code Section 36-42-8.1, relating to use of eminent domain by
 11 municipality or authority, and inserting in lieu thereof a new subsection (c) to read as
 12 follows:

13 "(c) A downtown development authority may not acquire real property through the
 14 exercise of the power of eminent domain until the following conditions and requirements
 15 have been met:

16 (1) The proposed rehabilitation of the property must be set forth in a downtown
 17 development plan adopted by the municipality and incorporated in any comprehensive
 18 plan of the municipality submitted to the Department of Community Affairs pursuant to
 19 Chapter 70 of this title;

20 (2) The governing body of the municipality shall adopt a resolution specifically
 21 approving the proposed use of eminent domain power by the downtown development
 22 authority as to the specific parcels of property sought to be condemned;

23 (3) The downtown development authority shall, in writing, notify the owner of the real
 24 property proposed to be acquired of the planned rehabilitation of the property as set forth
 25 in the downtown development plan for the downtown development area wherein the
 26 property is located;

27 (4) Within 30 days after being so notified, the owner of the property shall have the option
 28 of notifying the downtown development authority, in writing, of ~~his~~ the owner's
 29 willingness and intention to rehabilitate and maintain the property in accordance with the
 30 downtown development plan. In the event of multiple ownership of the property,
 31 unanimous agreement by the owners shall be required, and the failure of any one owner
 32 to notify the downtown development authority within the time limitations specified in this
 33 paragraph of ~~his~~ the owner's willingness and intention to rehabilitate and maintain the
 34 property in accordance with the downtown development plan shall be deemed to be a
 35 failure to exercise the option provided in this paragraph; and

1 (5) The owner of such property may execute an agreement with the downtown
 2 development authority to rehabilitate the property in accordance with the downtown
 3 development plan. Any such agreement shall be as the downtown development authority
 4 deems necessary and appropriate as to form and content. In connection therewith, the
 5 downtown development authority shall have the right to require sufficient performance,
 6 payment, and completion bonds. In the event that any such owner, at any time, fails to
 7 comply with or defaults in the performance of the provisions of the agreement, such
 8 property shall no longer be subject to the agreement, the option provided by paragraph (4)
 9 of this subsection shall no longer apply, and the property may be acquired by the
 10 downtown development authority by purchase or through the exercise of the power of
 11 eminent domain. In the alternative, the downtown development authority may either
 12 specifically enforce the agreement, exercise any rights under any bonds which may have
 13 been required, and obtain any other legal or equitable relief as may be available to the
 14 downtown development authority or, if the owner fails to exercise the option to
 15 rehabilitate the property or defaults on the agreement to rehabilitate the property, the
 16 downtown development authority may implement those portions of the downtown
 17 development plan with respect to such property to the extent the authority deems
 18 necessary and the costs of implementing such plan shall be a lien against the property
 19 enforceable in the same manner as a lien for taxes."

20 **SECTION 6.**

21 Said title is further amended by adding a new Code Section 36-60-24 to read as follows:

22 "36-60-24.

23 Except as otherwise provided in the Constitution, no county or municipal authority having
 24 the power of eminent domain shall exercise such power with regard to private property
 25 without first obtaining the specific approval of the governing authority of the municipality
 26 in which such property is located or, if such property is not located in a municipality, of the
 27 governing authority of the county in which such property is located."

28 **SECTION 7.**

29 Said title is further amended by striking subsection (c) of Code Section 36-61-9, relating to
 30 the exercise of the power of eminent domain by urban redevelopment agencies, and inserting
 31 in lieu thereof a new subsection (c) to read as follows:

32 "(c) Unless the property is to be acquired for the purpose of devoting it to a public use, a
 33 municipality or county may not acquire real property through the exercise of the power of
 34 eminent domain pursuant to subsection (a) of this Code section until the following
 35 conditions and requirements have been met:

1 (1) The municipality or county which adopted the urban redevelopment plan has
2 approved a resolution specifically authorizing the exercise of the power of eminent
3 domain by the agency to acquire the specific property sought to be condemned;

4 (2) The municipality or county shall, in writing, notify the owner of the real property
5 proposed to be acquired of the planned rehabilitation of the property as set forth in the
6 urban redevelopment plan for the urban redevelopment area wherein the property is
7 located;

8 (3) Within 30 days after being so notified, the owner of the property shall have the option
9 of notifying the municipality or county, in writing, of ~~his~~ the owner's willingness and
10 intention to rehabilitate and maintain the property in accordance with the urban
11 redevelopment plan. In the event of multiple ownership of the property, unanimous
12 agreement by the owners shall be required; and the failure of any one owner to notify the
13 municipality or county, within the time limitation specified in this paragraph, of ~~his~~ the
14 owner's willingness and intention to rehabilitate and maintain the property in accordance
15 with the urban redevelopment plan shall be deemed to be a failure to exercise the option
16 provided in this paragraph; and

17 (4) The owner of the property may execute an agreement with the municipality or county
18 to rehabilitate the property in accordance with the urban redevelopment plan. Any such
19 agreement shall be as the municipality or county deems necessary and appropriate as to
20 form and content; in connection therewith, the municipality or county shall have the right
21 to require sufficient performance, payment, and completion bonds. In the event that any
22 such owner, at any time, fails to comply with or defaults in the performance of the
23 provisions of the agreement, such property shall no longer be subject to the agreement,
24 the option provided by paragraph (3) of this subsection shall no longer apply, and the
25 property may be acquired by the municipality or county by purchase or through the
26 exercise of the power of eminent domain. In the alternative, the municipality or county
27 may either specifically enforce the agreement, exercise any rights under any bonds which
28 may have been required, and obtain any other legal or equitable relief as may be available
29 to the municipality or county or, if the owner fails to exercise the option to rehabilitate
30 the property or defaults on the agreement to rehabilitate the property, the municipality or
31 county may implement those portions of the urban development plan with respect to such
32 property to the extent the municipality or county deems necessary and the costs of
33 implementing such plan shall be a lien against the property enforceable in the same
34 manner as tax liens."

35 SECTION 8.

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