

House Bill 1313

By: Representatives Golick of the 34<sup>th</sup>, Willard of the 49<sup>th</sup>, Richardson of the 19<sup>th</sup>, Roberts of the 154<sup>th</sup>, Smith of the 129<sup>th</sup>, and Davis of the 109<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 8 of the Official Code of Georgia Annotated, relating buildings and housing,  
2 Title 22 of the Official Code of Georgia Annotated, relating to eminent domain, and Title 36  
3 of the Official Code of Georgia Annotated, relating to local government, so as to provide for  
4 the comprehensive revision of provisions regarding eminent domain; to provide for a short  
5 title; to change certain provisions regarding a housing authority’s eminent domain power; to  
6 change certain language relating to blighted areas; to provide for a new definition of blighted  
7 areas; to change certain provisions regarding housing authorities’ power of eminent domain;  
8 to provide for definitions; to provide for a public use requirement for exercising the power  
9 of eminent domain; to change certain provisions relating to the power of eminent domain and  
10 the presumption of a public use; to provide for attorney’s fees in certain cases challenging  
11 the use of eminent domain; to change the manner of assessing eminent domain; to amend  
12 Chapter 3 of Title 23 of the Official Code of Georgia Annotated, relating to equitable  
13 remedies and proceedings, so as to grant standing to municipalities and counties to seek  
14 certain equitable remedies and proceedings; to provide for certain changes regarding eminent  
15 domain to require a public use; to change certain provisions regarding when the use of  
16 eminent domain is allowed; to provide guidelines when the use of eminent domain is  
17 appropriate for municipalities or authorities; to provide for certain notification requirements  
18 for the use of eminent domain under a redevelopment plan; to provide for certain restrictions  
19 regarding the use of eminent domain under or in connection with revenue bonds; to provide  
20 for reacquisition of condemned property if a stated public purpose no longer exists; to  
21 provide for the right to expedited condemnation process; to provide for jurisdiction over  
22 condemnation for the purposes of redevelopment; to provide for reimbursement of  
23 reasonable costs and expenses incurred because of condemnation proceedings; to provide for  
24 certain exemptions; to provide for a special master’s powers and duties; to provide for  
25 judicial review of a special master’s award; to provide for an effective date and for  
26 applicability; to repeal conflicting laws; and for other purposes.

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 1313



1 (4) Ensure that any meeting at which such resolution is to be considered and voted on  
 2 shall commence after 6:00 P.M.

3 (d) Compliance with this Code section shall be in addition to and not in the place of the  
 4 requirements imposed by Title 22.

5 (e) The requirements set forth in this Code section shall satisfy the requirements provided  
 6 in Code Section 22-1-11."

### 7 SECTION 3.

8 Said title is further amended by striking Code Section 8-4-2, relating to legislative findings  
 9 regarding blighted areas, and inserting a new Code Section 8-4-2 to read as follows:

10 "8-4-2.

11 It is found and declared:

12 (1) That there exist in many communities within this state blighted ~~areas~~ properties, as  
 13 defined in Code Section 8-4-3, or ~~areas~~ properties in the process of becoming blighted;

14 (2) That ~~such areas impair economic values and tax revenues; that such areas~~ properties  
 15 cause an increase in and spread of disease ~~and or~~ crime and constitute a menace to the  
 16 health, safety, morals, and welfare of the residents of the state; that these conditions  
 17 necessitate excessive and disproportionate expenditures of public funds for crime  
 18 prevention and punishment, public health and safety, fire and accident protection, and  
 19 other public services and facilities;

20 (3) That the clearance, replanning, and preparation for rebuilding of these ~~areas~~  
 21 properties and the prevention of the reduction of blight and its causes are public uses and  
 22 purposes for which public money may be spent and private property acquired and are  
 23 governmental functions of state concern;

24 (4) That ~~there are also certain areas where the condition of the title, the diverse~~  
 25 ownership of the land to be assembled, the street or lot layouts, or other conditions  
 26 prevent a proper development of the land; that it is in the public interest that ~~such areas,~~  
 27 ~~as well as~~ blighted ~~areas,~~ properties be acquired by eminent domain and made available  
 28 for sound and wholesome development in accordance with a redevelopment plan; and  
 29 that the exercise of the power of eminent domain and the financing of the acquisition and  
 30 preparation of land by a public agency for such redevelopment is likewise a public use  
 31 and purpose;

32 (5) That redevelopment activities will stimulate residential construction which is closely  
 33 correlated with general economic activity; and that such undertakings authorized by this  
 34 chapter will aid the production of better housing and more desirable neighborhood and  
 35 community development at lower costs and will make possible a more stable and larger

1 volume of residential construction, which will assist materially in achieving and  
2 maintaining full employment;

3 (6) That there exists an emergency housing shortage of decent, safe, and sanitary  
4 dwellings for families of low income; and

5 (7) That it is in the public interest that advance preparation for such projects and  
6 activities be made now; and that the necessity in the public interest for the provisions  
7 enacted by this chapter is declared as a matter of legislative determination."

#### 8 SECTION 4.

9 Said title is further amended by striking Code Section 8-4-3, relating to definitions regarding  
10 blighted areas, and inserting in its place a new Code Section 8-4-3 to read as follows:

11 "8-4-3.

12 As used in this chapter, the term:

13 ~~(1) 'Blighted areas' means:~~

14 ~~(A) Areas in which there is a predominance of buildings or improvements, or which~~  
15 ~~are predominantly residential in character, and which, by reason of:~~

16 ~~(i) Dilapidation, deterioration, age, or obsolescence;~~

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

18 ~~(iii) High density of population and overcrowding;~~

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

21 ~~(v) Any combination of such factors;~~

22 ~~are conducive to ill health, transmission of disease, infant mortality, juvenile~~  
23 ~~delinquency, and crime and are detrimental to the public health, safety, morals, or~~  
24 ~~welfare; and~~

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

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

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

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

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

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

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

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

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

34 ~~(ix) The existence of conditions which endanger life or property by fire or other~~  
35 ~~causes; or~~

36 ~~(x) Any combination of such factors;~~

1 substantially impair or arrest the sound growth of the community, retard the provision of  
 2 housing accommodations, or constitute an economic or social liability and are a menace  
 3 to the public health, safety, morals, or welfare in their the area's present condition and  
 4 use.

5 (1) 'Blighted property' or 'blight' means any urbanized or developed property which, as  
 6 shown by government maintained statistics or other studies, presents two or more of the  
 7 following conditions:

8 (A) Substandard, deteriorated, or deteriorating structures;

9 (B) Inadequate provisions for ventilation, light, air sanitation, or open spaces;

10 (C) An imminent harm to life or other property by fire, flood, hurricane, tornado,  
 11 earthquake, storm, or other catastrophe respecting which the Governor of the state has  
 12 certified the need for disaster assistance under federal law;

13 (D) Tax or special assessment delinquency exceeding the fair value of the land;

14 (E) Impairment of development by airport or transportation noise;

15 (F) A superfund site identified by any state or federal environment agency or  
 16 environmental contamination to an extent that requires remedial investigation or  
 17 feasibility study; and

18 (G) Repeated illegal use of individual structures and maintenance of property below  
 19 state, county, or municipal codes for at least one year after notice of the code violation  
 20 and as a result is conducive to ill health, transmission of disease, infant mortality, juvenile  
 21 delinquency, or crime in the area's present condition and use. Property which may be  
 22 deemed esthetically substandard or deteriorating shall not meet the definition of blighted  
 23 property unless the overall condition of the property results in ill health, transmission of  
 24 disease, infant mortality, juvenile delinquency, or crime.

25 (2) 'Redevelopment plan' means a plan, other than a preliminary or tentative plan, for the  
 26 acquisition, clearance, reconstruction, rehabilitation, or future use of a redevelopment  
 27 project area. Such plan shall be sufficiently complete to indicate its relationship to  
 28 definite local objectives as to appropriate land uses, improved traffic, public  
 29 transportation, public utilities, recreational and community facilities, and other public  
 30 improvements and to indicate the proposed land uses and building requirements in the  
 31 redevelopment project area.

32 (3) 'Redevelopment project' means:

33 (A) Any work or undertaking to acquire blighted property ~~areas or portions thereof~~,  
 34 including lands, structures, or improvements, the acquisition of which is necessary or  
 35 incidental to the proper clearance, development, or redevelopment of such blighted  
 36 areas ~~properties~~ or to the prevention of the spread or recurrence of ~~such~~ blighted  
 37 conditions ~~or conditions of blight~~;

1 (B) Any work or undertaking to clear any such areas by demolition or removal of  
 2 existing buildings, structures, streets, utilities, or other improvements thereon and to  
 3 install, construct, or reconstruct streets, utilities, and site improvements essential to the  
 4 preparation of sites for uses in accordance with the redevelopment plan;

5 (C) Any work or undertaking to sell, lease, or otherwise make available land in such  
 6 areas for residential, recreational, commercial, industrial, or other use, or for public use  
 7 or to retain such land for public use, in accordance with the redevelopment plan; and

8 (D) The preparation of a redevelopment plan; the planning, survey, and other work  
 9 incident to a redevelopment project; and the preparation of all plans and arrangements  
 10 for carrying out a redevelopment project."

### 11 SECTION 5.

12 Said title is further amended by striking Code Section 8-4-4, relating to the eminent domain  
 13 powers of housing authorities, and inserting in its place a new Code Section 8-4-4 to read as  
 14 follows:

15 "8-4-4.

16 (a) Any housing authority established pursuant to Article 1 of Chapter 3 of this title, the  
 17 'Housing Authorities Law,' is authorized to prepare or cause to be prepared redevelopment  
 18 plans and to undertake redevelopment projects within its area of operation, in accordance  
 19 with this chapter. In undertaking such redevelopment projects, a housing authority shall  
 20 have all the rights, powers, privileges, and immunities that such authority has under Article  
 21 1 of Chapter 3 of this title, the 'Housing Authorities Law,' and any other provision of law  
 22 relating to ~~slum~~ blight clearance and housing projects for persons of low income, including,  
 23 without limiting the generality of the foregoing, the power to make and execute contracts,  
 24 to issue bonds and other obligations and give security therefor, to acquire real property by  
 25 ~~eminent domain~~ or purchase, and to do any and all things necessary to carry out projects  
 26 in the same manner as though all of the provisions of law applicable to ~~slum~~ blight  
 27 clearance and housing projects were applicable to redevelopment projects undertaken under  
 28 this chapter, provided that nothing contained in Code Sections 8-3-11 and 8-3-12 shall be  
 29 construed as limiting the power of an authority, in the event of a default by a purchaser or  
 30 lessee of land in a redevelopment plan, to acquire property and operate it free from the  
 31 restrictions contained in said Code sections.

32 (b) Each exercise of eminent domain under this chapter must be by resolution by the  
 33 governing authority of the city within which the property is located, if any, or otherwise  
 34 of the governing authority of the county within which the property is located.

35 (c) Any governing authority acting under this Code section shall:

1 (1) Not less than 15 days before any meeting at which such resolution is to be considered  
 2 post a sign stating the time, date, and place of such meeting in a conspicuous location on  
 3 each property that is subject to the proposed use of the eminent domain power;

4 (2) Not less than 15 days before any meeting at which such resolution is to be considered  
 5 mail notice to the property owner at the address of record, return receipt requested, or  
 6 deliver such notice by statutory overnight delivery;

7 (3) Ensure that any notice that is required by law to be published be placed in a  
 8 newspaper of general circulation, but such notice shall not be published in the legal  
 9 notices section of such newspaper; and

10 (4) Ensure that any meeting at which such resolution is to be considered and voted on  
 11 shall commence after 6:00 P.M."

## 12 SECTION 6.

13 Title 22 of the Official Code of Georgia Annotated, relating to eminent domain, is amended  
 14 by striking Code Section 22-1-1, relating to eminent domain definitions, and inserting in its  
 15 place a new Code Section 22-1-1 to read as follows:

16 "22-1-1.

17 As used in this title, the term:

18 (1) 'Economic development' means any economic activity to increase tax revenue, tax  
 19 base, employment, or general economic health, when the activity does not result in:

20 (A) Transfer of land to public ownership;

21 (B) Transfer of property to a private entity that is a common carrier, such as a railroad,  
 22 or utility;

23 (C) Transfer of property to a private entity when eminent domain will remove a threat  
 24 to public health or safety, such as the removal of public nuisances, removal of  
 25 structures beyond repair or that are unfit for human habitation or use, or acquisition of  
 26 abandoned property; or

27 (D) Lease of property to private entities that occupy an incidental area within a public  
 28 project.

29 ~~(1)~~(2) 'Interest' means any title or nontitle interest other than fee simple title.

30 ~~(2)~~(3) 'Persons' means individuals, partnerships, associations, and corporations, domestic  
 31 or foreign.

32 ~~(3)~~(4) 'Property' means fee simple title.

33 (5)(A) 'Public use' means:

34 (i) The possession, occupation, and enjoyment of the land by the general public or  
 35 by public agencies;

36 (ii) The use of land for the creation or functioning of public utilities;

1 (iii) The opening of roads, the construction of defenses, or the providing of channels  
 2 of trade or travel;

3 (iv) The acquisition of property to cure a concrete harmful effect of the current use  
 4 of the land, including the removal of public nuisances, structures that are beyond  
 5 repair or that are unfit for human habitation or use, and the acquisition of abandoned  
 6 property; and

7 (v) The acquisition of property where, after a proceeding to quiet title, persons with  
 8 an interest in the property remain unknown and unanimous consent is received from  
 9 all persons known to have an interest in the property.

10 (B) The public benefit of economic development shall not constitute a public use."

### 11 SECTION 7.

12 Said title is further amended by striking Code Section 22-1-2, relating to the nature of  
 13 eminent domain, and inserting in its place a new Code Section 22-1-2 to read as follows:

14 "22-1-2.

15 (a) The right of eminent domain is the right of the state, through its regular organization,  
 16 to reassert, either temporarily or permanently, its dominion over any portion of the soil of  
 17 the state on account of public exigency and for the public good. Thus, in time of war or  
 18 insurrection the proper authorities may possess and hold any part of the territory of the state  
 19 for the common safety; and in time of peace the General Assembly may authorize the  
 20 appropriation of the same to public purposes, such as the opening of roads, construction of  
 21 defenses, or providing channels for trade or travel. Notwithstanding any other provisions  
 22 of law, neither this state nor any political subdivision thereof nor any other condemning  
 23 entity shall use eminent domain unless it is necessary for public use.

24 (b) If property acquired through the power of eminent domain from an owner fails to be  
 25 put to the stated public use within five years, the former owner may initiate an action in  
 26 superior court to reacquire the property. Where the condemnor has not undertaken  
 27 discernable action to put the property to its stated public use, the superior court may declare  
 28 that the former owner or his or her assigns and heirs shall have the right to reacquire such  
 29 property for the fair market value at the time of the reacquisition, unless the fair market  
 30 value at such time is less than the condemnation price plus interest, in which case the  
 31 reacquiring party shall pay the original condemnation price plus interest.

32 (c) In the case that property is acquired from more than one owner for the same public  
 33 purpose and reacquisition by a single owner is impracticable, any interested party may file  
 34 an action in the superior court where the property is located for an equitable resolution."



1 condemnor shall provide the owner of real property to be acquired with a written  
2 statement of, and summary of the basis for, the amount he or she established as just  
3 compensation. Where appropriate, the just compensation for the real property acquired  
4 and for damages to remaining real property shall be separately stated;

5 (4) No owner shall be required to surrender possession of real property before the  
6 condemnor pays the agreed purchase price or deposits with the court in accordance with  
7 this title, for the benefit of the owner, an amount not less than the condemnor's approved  
8 appraisal of the fair market value of such property or the amount of the award of  
9 compensation in the condemnation proceeding for such property;

10 (5) The construction or development of a public improvement shall be so scheduled that,  
11 to the greatest extent practicable, no person lawfully occupying real property shall be  
12 required to move from a dwelling or to move his or her business or farm operation  
13 without at least 90 days' written notice from the condemnor of the date by which such  
14 move is required;

15 (6) If the condemnor permits an owner or tenant to occupy the real property acquired on  
16 a rental basis for a short term or for a period subject to termination by the condemnor on  
17 short notice, the amount of rent required shall not exceed the fair rental value of the  
18 property to a short-term occupier;

19 (7) In no event shall the condemnor either advance the time of condemnation or defer  
20 negotiations or condemnation and the deposit of funds in court for the use of the owner  
21 or take any other action coercive in nature in order to compel an agreement on the price  
22 to be paid for the property;

23 (8) If any interest in real property is to be acquired by exercise of the power of eminent  
24 domain, the condemnor shall institute formal condemnation proceedings. No condemnor  
25 shall intentionally make it necessary for an owner to institute legal proceedings to prove  
26 the fact of the taking of his or her real property; and

27 (9) A person whose real property is being acquired in accordance with this title may,  
28 after the person has been fully informed of his or her right to receive just compensation  
29 for such property, donate such property, any part thereof, any interest therein, or any  
30 compensation paid to a condemnor, as such person shall determine.

31 22-1-10.

32 (a) Prior to the acquisition of any property pursuant to a redevelopment plan for blighted  
33 property, the condemnor shall file a petition in the superior court of the county which  
34 maintains jurisdiction over the property sought to be condemned. The petition shall set  
35 forth the reasons for the condemnation and provide a copy of the redevelopment plan. The

1 condemnor shall provide notice of the petition to each person with an interest in the  
2 property as set forth in this title.

3 (b) The superior court shall determine, after notice and hearing, whether the condemnor  
4 has the legal authority to exercise the power of eminent domain, including whether the  
5 property identified by the condemnor is 'blighted' as that term is defined by law. The  
6 condemnor shall have the burden of proof.

7 (c) The superior court may refer the matter to a special master. The special master shall  
8 file a report with the superior court providing all findings necessary to reach a decision.

9 (d) The hearing shall occur no less than 30 days after the petition is filed.

10 (e) The court having jurisdiction of a proceeding instituted by a condemnor to acquire real  
11 property by condemnation shall award the owner of any right or title to or interest in such  
12 real property such sum as will in the opinion of the court reimburse such owner for his or  
13 her reasonable costs and expenses, including reasonable attorney, appraisal, and  
14 engineering fees, actually incurred because of the condemnation proceedings, if:

15 (1) The final judgment is that the condemnor cannot acquire the real property by  
16 condemnation; or

17 (2) The proceeding is abandoned by the condemnor.

18 22-1-11.

19 (a) Except where expressly exempted by statute, before any resolution to condemn  
20 property is approved, the condemnor must provide notice of the resolution of condemnation  
21 to all parties, other than governmental bodies, having interest in the property by statutory  
22 overnight delivery or certified mail.

23 (b) After the notice described in subsection (a) of this Code section is provided, the  
24 condemnor shall provide an opportunity for a hearing of the condemnee or condemnees no  
25 less than 14 days after delivering or depositing the notice. The hearing shall be held by the  
26 condemning body authorized to institute the condemnation proceeding.

27 (c) Notwithstanding any other provision of law, the requirements set forth in  
28 subsections (a) and (b) of this Code section shall apply to all exercises of the power of  
29 eminent domain.

30 (d) The notice provisions of this Code section are in addition to and not in the place of the  
31 need for notice provided elsewhere in this title.

32 22-1-12.

33 In all actions where a condemnor exercises the power of eminent domain, the court having  
34 jurisdiction of a proceeding instituted by a condemnor to acquire real property by  
35 condemnation shall award the owner of any right or title to or interest in such real property

1 such sum as will in the opinion of the court reimburse such owner for his or her reasonable  
 2 costs and expenses, including reasonable attorney, appraisal, and engineering fees, actually  
 3 incurred because of the condemnation proceedings, if:

- 4 (1) The final judgment is that the condemnor cannot acquire the real property by  
 5 condemnation; or
- 6 (2) The proceeding is abandoned by the condemnor.

7 22-1-13.

8 In addition to types of damages permissible under law, any condemnee that is displaced as  
 9 a result of the condemnation shall be entitled to:

- 10 (1) Actual reasonable expenses in moving himself or herself, his or her family, business,  
 11 farm operation, or other personal property;
- 12 (2) Actual direct losses of tangible personal property as a result of moving or  
 13 discontinuing a business or farm operation; and
- 14 (3) Actual reasonable expenses in search for a replacement business or farm.

15 This provision shall not apply to condemnation for the provision of utility or water  
 16 services, storm or sanitary sewer systems, or the building of roads, bridges, or rail lines."

#### 17 **SECTION 10.**

18 Said title is further amended by repealing Code Section 22-2-84.1, relating to appeals to  
 19 superior court from assessor's award, reasonable expenses, and liability of cost relating to  
 20 issues of law.

#### 21 **SECTION 11.**

22 Said title is further amended by striking Code Section 22-2-100, relating to the definition of  
 23 "condemning body" and "condemnor," and inserting in its place a new Code section to read  
 24 as follows:

25 "22-2-100.

26 As used in this article, 'condemning body' or 'condemnor' means:

- 27 (1) The State of Georgia or any branch of the government of the State of Georgia;
- 28 (2) Any county or municipality of the State of Georgia;
- 29 ~~(3) Any housing authority;~~
- 30 ~~(4)~~(3) Any other political subdivision of the State of Georgia which is vested with the  
 31 power of eminent domain; and
- 32 ~~(5)~~(4) All other persons possessing the right or power of eminent domain. All public  
 33 utilities and corporations licensed to do business in Georgia and regulated by the Public  
 34 Service Commission that possess the right or power of eminent domain."







1 respectfully recommend to the court that the said property or interest be condemned by  
 2 a judgment in rem to the use of the condemnor upon the payment of the last stated sum  
 3 into the registry of the court, subject to the demands of the condemnee.

4 This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

5 \_\_\_\_\_  
 6 Special Master

7 \_\_\_\_\_  
 8 Assessor

9 \_\_\_\_\_  
 10 Assessor

11 (d) In any case where there is an appeal from the award of the special master or the special  
 12 master panel, in the event such a panel exists, to a jury in the superior court, such award  
 13 shall not be competent evidence. Any such appeal shall be a de novo investigation, and  
 14 such award shall be detached from the papers in the case before the same are delivered to  
 15 the jury."

16 **SECTION 16.**

17 Said title is further amended by striking Code Section 22-2-112, relating to the right of  
 18 appealing the award of the special master in condemnation proceedings, and inserting in its  
 19 place a new Code section to read as follows:

20 "22-2-112.

21 ~~In case any party is dissatisfied with the amount of the award, he or she may, within ten~~  
 22 ~~days after the award is filed, enter in writing an appeal from the award to the superior court~~  
 23 ~~of the county where the award is filed. The provisions of Code Section 22-2-84.1, relating~~  
 24 ~~to reasonable expenses incurred on appeal, shall apply to any appeal under this Code~~  
 25 ~~section. If the condemnor, condemnee, or any party in interest is dissatisfied with the~~  
 26 ~~amount of the award, an appeal shall be filed within ten days from the award to the superior~~  
 27 ~~court of the county where the award is filed.~~ At the term succeeding the filing of the  
 28 appeal, it shall be the duty of the judge to cause an issue to be made and tried by a jury as  
 29 to the value of the property or interest taken or the amount of damage done, with the same  
 30 right to move for a new trial and file an appeal as in other cases at law. The entering of an  
 31 appeal and the proceedings thereon shall not hinder or delay in any way the condemnor's  
 32 work or the progress thereof."

**SECTION 17.**

Said title is further amended by inserting at the end of Code Section 22-2-130, relating to the authority to petition superior court for judgment in rem and the applicability to acquisition of public property, a new subsection (c) to read as follows:

"(c) If after a proceeding to quiet title, persons with an interest in the property remain unknown, it shall be considered a public use to condemn the property with the unanimous consent of the persons known to have an interest in the property."

**SECTION 18.**

Said title is further amended by striking Code Section 22-2-131, relating to contents in a petition to the superior court for a judgment in rem, and inserting in its place a new Code section to read as follows:

"22-2-131.

(a) The petition referred to in Code Section 22-2-130 shall set forth:

(1) The facts showing the right to condemn;

(2) The property or interest to be taken or damaged;

(3) The names and residences of the persons whose property or interests are to be taken or otherwise affected, so far as known;

(4) A description of any unknown persons or classes of unknown persons whose rights in the property or interest are to be affected;

(5) Such other facts as are necessary for a full understanding of the cause; ~~and~~

(6) A statement setting forth the necessity to condemn the private property and describing the public use for which the condemnor seeks the property; and

~~(6)~~(7) A prayer for such judgment of condemnation as may be proper and desired.

(b) If any of the persons referred to in this Code section are minors or under disability, the fact shall be stated."

**SECTION 19.**

Said title is further amended by striking Code Section 22-2-132, relating to requirements of notice and service upon presenting a petition for a judgment in rem, and inserting in its place a new Code section to read as follows:

"22-2-132.

(a) Upon presentation of the petition, the presiding judge ~~may~~ shall issue an order requiring the condemnor, the owner of the property or of any interest therein, and the representative of any owner to appear at a time and place named in the order and make known their objections if any, rights, or claims as to the value of the property or of their interest therein, and any other matters material to their respective rights.

1 (b) The day named in the order shall be as early as may be convenient but shall be no less  
 2 than 14 days from the date of the petition, due regard being given to the necessities of  
 3 notice.

4 (c) The order shall give appropriate directions for notice and the service thereof.

5 (d) It shall not be necessary to attach any other process to the petition except the order  
 6 referred to in subsection (a) of this Code section, and the cause shall proceed as in rem."

7 **SECTION 20.**

8 Said title is further amended by striking in its entirety Code Section 22-4-3, relating to the  
 9 applicability of Code Section 22-1-1, and inserting in lieu thereof a new Code Section 22-4-3  
 10 to read as follows:

11 "22-4-3.

12 The definitions contained in paragraphs ~~(1) and (3)~~ (2) and (4) of Code Section 22-1-1 shall  
 13 not apply to this chapter."

14 **SECTION 21.**

15 Chapter 3 of Title 23 of the Official Code of Georgia Annotated, relating to equitable  
 16 remedies and proceedings, is amended by adding a new Code section to read as follows:

17 "23-3-73.

18 All municipalities and counties shall have standing pursuant to this part."

19 **SECTION 22.**

20 Chapter 42 of Title 36 of the Official Code of Georgia Annotated, relating to downtown  
 21 development authorities, is amended by striking subsection (b) of Code Section 36-42-8,  
 22 relating to the powers of authorities generally, and inserting a new subsection (b) to read as  
 23 follows:

24 "(b) The powers enumerated in each paragraph of subsection (a) of this Code section are  
 25 cumulative of and in addition to those powers enumerated in the other paragraphs of  
 26 subsection (a) of this Code section and elsewhere in this chapter; and no such power limits  
 27 or restricts any other power of the authority except that, notwithstanding any other  
 28 provision of law, no authority described in this chapter shall be granted the power of  
 29 eminent domain."

30 **SECTION 23.**

31 Said chapter is further amended by repealing Code Section 36-42-8.1, relating to the use of  
 32 the power of eminent domain by a municipality or downtown development authority.



1 "36-61-9.

2 (a) Except as otherwise provided in subsection (c) of this Code section, a municipality or  
3 county shall have the right to acquire, by exercise of the power of eminent domain, any real  
4 property which it may deem necessary for ~~its purposes under this chapter~~ the remedy of  
5 blight, after the adoption by it of a resolution declaring that the acquisition of the real  
6 property described therein is necessary for such purposes. A municipality or county may  
7 exercise the power of eminent domain in the manner provided in Title 22; ~~or it may~~  
8 ~~exercise the power of eminent domain in the manner provided by any other applicable~~  
9 ~~statutory provisions for the exercise of the power of eminent domain~~ or in the manner set  
10 forth in this chapter. Property already devoted to a public use may be acquired, provided  
11 that no real property belonging to the municipality, the county, the state, or any political  
12 subdivision thereof may be acquired without its consent.

13 (b) Whenever condemnation proceedings are instituted and carried on by a municipality  
14 or county in accordance with subsection (a) of this Code section ~~or through any other~~  
15 ~~method of condemnation provided by law~~, upon the payment by the municipality or county  
16 seeking condemnation of the amount of the award and final judgment on appeal the  
17 municipality or county shall become vested with a fee simple indefeasible title to the  
18 property to which the condemnation proceedings relate. Such payment may be offset in  
19 whole or in part by the amount of any municipal or county tax liens on the condemned  
20 property and by any existing special assessments tax liens on the condemned property,  
21 including without limitation education or special district taxes collected by the municipality  
22 or county; provided, however, that any such setoff shall be subject to any existing tax liens  
23 having higher priority pursuant to Code Section 48-2-56 and to the interest in the  
24 condemned property of any known beneficiary of a year's support pursuant to Code  
25 Section 53-5-2 of the 'Pre-1998 Probate Code,' if applicable, or Code Sections 53-3-1,  
26 53-3-2, 53-3-4, 53-3-5, and 53-3-7 of the 'Revised Probate Code of 1998'; provided,  
27 further, that where the condemned property is subject to a valid deed to secure debt, such  
28 setoff shall only be allowed for tax liens which arose as a result of an assessment against  
29 such property. It is declared to be necessary, to enable such municipalities and counties  
30 to exercise their powers under this Code section, that upon the condemnation proceedings  
31 being had, the municipalities and counties shall become vested with fee simple indefeasible  
32 title to the property involved in the proceedings.

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

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

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) The governing body of the municipality or county shall:

9 (A) Not less than 15 days before any meeting at which such resolution is to be  
 10 considered post a sign stating the time, date, and place of such meeting in a conspicuous  
 11 location on each property that is subject to the proposed use of the eminent domain  
 12 power;

13 (B) Not less than 15 days before any meeting at which such resolution is to be  
 14 considered mail notice to the property owner at the address of record, return receipt  
 15 requested, or deliver such notice by statutory overnight delivery;

16 (C) Ensure that any notice that is required by law to be published be placed in a  
 17 newspaper of general circulation, but such notice shall not be published in the legal  
 18 notices section of such newspaper; and

19 (D) Ensure that any meeting at which such resolution is to be considered and voted on  
 20 shall commence after 6:00 P.M.;

21 ~~(3)~~(4)(A) Within ~~30~~ 60 days after being so notified, the owner of the property shall  
 22 have the option of notifying the municipality or county, in writing, of his or her  
 23 willingness and intention to rehabilitate and maintain the property in accordance with  
 24 the urban redevelopment plan. In the event of multiple ownership of the property,  
 25 unanimous agreement by the owners shall be required; and the failure of any one owner  
 26 to notify the municipality or county, within the time limitation specified in this  
 27 paragraph, of his or her willingness and intention to rehabilitate and maintain the  
 28 property in accordance with the urban redevelopment plan shall be deemed to be a  
 29 failure to exercise the option provided in this paragraph; ~~and.~~

30 (B) Notice of proposed condemnations under a redevelopment plan must:

31 (i) Be posted in a conspicuous location on the site of the proposed condemnation at  
 32 least 15 days prior to the condemnation hearing;

33 (ii) Be mailed with return receipt requested to the property owner's address of record  
 34 or sent by statutory overnight delivery; and

35 (iii) Be placed in a newspaper of general circulation; and

36 ~~(4)~~(5) The owner of the property may execute an agreement with the municipality or  
 37 county to rehabilitate the property in accordance with the urban redevelopment plan. Any

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

17 (d) The requirements set forth in this Code section shall satisfy the requirements provided  
 18 in Code Section 22-1-11."

#### 19 **SECTION 27.**

20 Said title is further amended by designating the existing text of Code Section 36-62-6,  
 21 relating to the general powers of a development authority, as subsection (a) and by adding  
 22 a new subsection, to be designated subsection (b), to read as follows:

23 "(b) This Code section shall not be construed as authorizing an authority as defined in this  
 24 chapter to exercise the power of eminent domain."

#### 25 **SECTION 28.**

26 Said title is further amended by striking paragraph (1) of subsection (a) of Code Section  
 27 36-82-62, relating to power as to undertakings and issuance of revenue bonds by government  
 28 bodies, and inserting in its place a new paragraph (1) to read as follows:

29 "(1) To acquire, by gift, purchase, or the exercise of the right of eminent domain, and to  
 30 construct, to reconstruct, to improve, to better, and to extend any undertaking wholly  
 31 within or wholly outside the governmental body or partially within and partially outside  
 32 the governmental body; and to acquire, by gift, purchase, or the exercise of the right of  
 33 eminent domain, lands, easements, rights in lands, and water rights in connection  
 34 therewith. Any exercise of eminent domain pursuant to this chapter must be approved  
 35 by resolution by the governing authority of the city within which the property is located,

1 if any, or otherwise by the governing authority of the county within which the property  
2 is located. A government authority acting under this Code section shall notify the  
3 property owner pursuant to Code Section 36-82-86;”.

#### 4 **SECTION 29.**

5 Said title is further amended by inserting a new Code section to read as follows:

6 "36-82-86.

7 Any governing authority acting under Code Section 36-82-62 shall:

8 (1) Not less than 15 days before any meeting at which such resolution is to be considered  
9 post a sign stating the time, date, and place of such meeting in a conspicuous location on  
10 each property that is subject to the proposed use of the eminent domain power;

11 (2) Not less than 15 days before any meeting at which such resolution is to be considered  
12 mail notice to the property owner at the address of record, return receipt requested, or  
13 deliver such notice by statutory overnight delivery;

14 (3) Ensure that any notice that is required by law to be published be placed in a  
15 newspaper of general circulation, but such notice shall not be published in the legal  
16 notices section of such newspaper; and

17 (4) Ensure that any meeting at which such resolution is to be considered and voted on  
18 shall commence after 6:00 P.M.”

#### 19 **SECTION 30.**

20 This Act shall become effective upon its approval by the Governor or upon its becoming law  
21 without such approval. The provisions of this Act shall be given retroactive effect where title  
22 has not vested in the condemning entity.

#### 23 **SECTION 31.**

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