

The House Committee on Judiciary offers the following substitute to HB 1313:

A BILL TO BE ENTITLED

AN ACT

1 To amend Titles 8, 22, 23, and 36 of the Official Code of Georgia Annotated, relating
2 buildings and housing, eminent domain, equity, and local government, respectively, so as to
3 provide for the comprehensive revision of provisions regarding the power of eminent
4 domain; to provide for a short title; to change certain provisions regarding a housing
5 authority's power of eminent domain; to change certain provisions regarding the acquisition
6 powers of housing authorities; to change certain provisions relating to legislative findings
7 regarding blighted properties; to provide for a new definition of blighted properties; to
8 provide for other 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 provide certain exemptions to the applicability of the power
12 of eminent domain to public utilities; to change certain provisions relating to the General
13 Assembly's power to determine when eminent domain may be exercised; to provide for
14 certain changes regarding eminent domain to require a public use; to change certain
15 provisions regarding when the use of eminent domain is allowed; to provide guidelines for
16 the use of condemnation; to provide for practice and procedure relative to condemnation; to
17 provide for testimony relative to the value of condemned property; to provide for expedited
18 hearings; to repeal provisions relating to certain appeals from assessor's awards; to change
19 compensation for special masters; to change provisions relating to the right of appealing the
20 award of the special master in condemnation proceedings; to change provisions relating to
21 the use of condemnation by waterworks; to grant standing to municipalities, counties, and
22 housing authorities to seek certain equitable remedies and proceedings; to provide for certain
23 notification requirements; to provide for certain restrictions regarding the use of eminent
24 domain under or in connection with a redevelopment plan and urban redevelopment; to
25 change certain provisions regarding who must conduct public hearings relating to
26 redevelopment plans; to provide for reacquisition of condemned property under certain
27 circumstances; to provide for reimbursement of reasonable costs and expenses incurred
28 because of condemnation proceedings; to provide for certain exemptions; to provide for

H. B. 1313 (SUB)

1 revisions for purposes of conformity; to provide for an effective date and for applicability;
 2 to repeal conflicting laws; and for other purposes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

4 **SECTION 1.**

5 This Act shall be known and may be cited as "The Private Property Protection Act."

6 **SECTION 2.**

7 Title 8 of the Official Code of Georgia Annotated, relating to buildings and housing, is
 8 amended by striking Code Section 8-3-31, relating to a housing authority's eminent domain
 9 power, and inserting in its place a new Code Section 8-3-31 to read as follows:

10 "8-3-31.

11 (a) After the adoption by the governing authority of the city or county of a resolution
 12 declaring that the acquisition of the real property described in the resolution is necessary
 13 for the purposes set forth in this chapter, a municipality, county, or housing authority ~~An~~
 14 ~~authority~~ shall have the right to acquire by the exercise of the power of eminent domain
 15 any real property which is blighted and is deemed ~~it may deem~~ necessary for its the
 16 purposes of the resolution described in this subsection. The exercise of the power of
 17 eminent domain authorized by this chapter shall be in the manner provided by Title 22.
 18 ~~under this article after the adoption by it of a resolution declaring that the acquisition of the~~
 19 ~~real property described therein is necessary for such purposes. An authority may exercise~~
 20 ~~the power of eminent domain in the manner provided in Title 22; or it may exercise the~~
 21 ~~power of eminent domain in the manner provided by any other applicable statutory~~
 22 ~~provisions for the exercise of the power of eminent domain.~~ Property already devoted to
 23 a public use may be acquired, except that no real property belonging to the city, the county,
 24 the state, or any political subdivision thereof may be acquired without the consent of such
 25 city, county, state, or other political subdivision.

26 (b) Each exercise of eminent domain under this article shall be by resolution by the
 27 governing authority of the city within which the property is located, if any, or otherwise
 28 by the governing authority of the county within which the property is located.

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

30 (1) Not less than 15 days before any meeting at which such resolution is to be considered
 31 post a sign, if possible, in the right of way adjacent to each property that is subject to the
 32 proposed use of the eminent domain power stating the time, date, and place of such
 33 meeting;

1 (2) Not less than 15 days before any meeting at which such resolution is to be considered
 2 mail notice to the property owner at the address of record, and if different from the
 3 property owner, to the parties in possession of the property, return receipt requested, or
 4 deliver such notice by statutory overnight delivery;

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

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

10 (d) Compliance with this Code section shall be in addition to and not in the place of the
 11 requirements imposed by Chapter 1 of Title 22; provided, however, that the requirements
 12 set forth in this Code section shall satisfy the requirements provided in Code Section
 13 22-1-11."

14 SECTION 3.

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

17 "8-4-2.

18 It is found and declared:

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

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

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

31 (4) That ~~there are also certain areas where the condition of the title, the diverse~~
 32 ~~ownership of the land to be assembled, the street or lot layouts, or other conditions~~
 33 ~~prevent a proper development of the land~~ which cloud title preventing the free transfer
 34 of property; that it is in the public interest that ~~such areas, as well as blighted areas,~~
 35 properties be acquired by eminent domain and made available for sound and wholesome
 36 development in accordance with a redevelopment plan; and that the exercise of the power

1 of eminent domain and the financing of the acquisition and preparation of land by a
2 public agency for such redevelopment is likewise a public use and purpose;

3 (5) That redevelopment activities will stimulate residential construction which is closely
4 correlated with general economic activity; and that such undertakings authorized by this
5 chapter will aid the production of better housing and more desirable neighborhood and
6 community development at lower costs and will make possible a more stable and larger
7 volume of residential construction, which will assist materially in achieving and
8 maintaining full employment;

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

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

14 SECTION 4.

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

17 "8-4-3.

18 As used in this chapter, the term:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (1) 'Blighted property' or 'blight' means:

12 (A) Any urbanized or developed property which, as shown by government maintained
13 statistics or other studies:

14 (i) Presents one or more of the following conditions:

15 (I) Uninhabitable, unsafe, or abandoned structures;

16 (II) Inadequate provisions for ventilation, light, air, sanitation, or open spaces;

17 (III) An imminent harm to life or other property caused by fire, flood, hurricane,

18 tornado, earthquake, storm, or other natural catastrophe respecting which the

19 Governor has declared a state of emergency under state law or has certified the need

20 for disaster assistance under federal law;

21 (IV) A site identified by the federal Environmental Protection Agency as a

22 Superfund site pursuant to 42 U.S.C. Section 9601, et seq., or environmental

23 contamination to an extent that requires remedial investigation or a feasibility

24 study; or

25 (V) Repeated illegal use of individual structures and the maintenance of the

26 property is below state, county, or municipal codes for at least one year after notice

27 of the code violation; and

28 (ii) Is conducive to ill health, transmission of disease, infant mortality, juvenile

29 delinquency, or crime in the redevelopment project area's present condition and use.

30 Property which may be deemed esthetically substandard or deteriorating shall not meet

31 the definition of blighted property unless the overall condition of the property results

32 in ill health, transmission of disease, infant mortality, juvenile delinquency, or crime;

33 or

34 (B) Property having tax liens or special assessment delinquency exceeding the fair

35 market value of the property.

36 (2) 'Redevelopment plan' means a plan, other than a preliminary or tentative plan, for the

37 acquisition, clearance, reconstruction, rehabilitation, or future use of a redevelopment

1 project area. Such plan shall be sufficiently complete to indicate its relationship to
 2 definite local objectives as to appropriate land uses, improved traffic, public
 3 transportation, public utilities, recreational and community facilities, and other public
 4 improvements and to indicate the proposed land uses and building requirements in the
 5 redevelopment project area.

6 (3) 'Redevelopment project' means:

7 (A) Any work or undertaking to acquire blighted property areas or portions thereof,
 8 including lands, structures, or improvements, the acquisition of which is necessary or
 9 incidental to the proper clearance, development, or redevelopment of such blighted
 10 areas properties or to the prevention of the spread or recurrence of ~~slum~~ blighted
 11 conditions or conditions of blight;

12 (B) Any work or undertaking to clear any such ~~areas~~ blighted properties by demolition
 13 or removal of existing buildings, structures, streets, utilities, or other improvements
 14 thereon and to install, construct, or reconstruct streets, utilities, and site improvements
 15 essential to the preparation of sites for uses in accordance with the redevelopment plan;

16 (C) Any work or undertaking to sell, lease, or otherwise make available land in such
 17 areas blighted properties for residential, recreational, commercial, industrial, or other
 18 use, or for public use or to retain such land for public use, in accordance with the
 19 redevelopment plan; and

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

23 SECTION 5.

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

27 "8-4-4.

28 (a) Any housing authority established pursuant to Article 1 of Chapter 3 of this title, the
 29 'Housing Authorities Law,' is authorized to prepare or cause to be prepared redevelopment
 30 plans and to undertake redevelopment projects within its area of operation, in accordance
 31 with this chapter. In undertaking such redevelopment projects, a housing authority shall
 32 have all the rights, powers, privileges, and immunities that such authority has under Article
 33 1 of Chapter 3 of this title, the 'Housing Authorities Law,' and any other provision of law
 34 relating to ~~slum blight~~ clearance and housing projects for persons of low income, including,
 35 without limiting the generality of the foregoing, the power to make and execute contracts,
 36 to issue bonds and other obligations and give security therefor, to acquire real property by

1 eminent domain or purchase after the governing authority within which the property is
 2 located has approved the acquisition and provided notice pursuant to subsections (b) and
 3 (c) of this Code section, and to do any and all things necessary to carry out projects in the
 4 same manner as though all of the provisions of law applicable to ~~slum~~ blight clearance and
 5 housing projects were applicable to redevelopment projects undertaken under this chapter,
 6 provided that nothing contained in Code Sections 8-3-11 and 8-3-12 shall be construed as
 7 limiting the power of an authority, in the event of a default by a purchaser or lessee of land
 8 in a redevelopment plan, to acquire property and operate it free from the restrictions
 9 contained in said Code sections.

10 (b) Each exercise of eminent domain under this chapter shall be by resolution by the
 11 governing authority of the city within which the property is located, if any, or otherwise
 12 by the governing authority of the county within which the property is located.

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

14 (1) Not less than 15 days before any meeting at which such resolution is to be considered
 15 post a sign, if possible, in the right of way adjacent to each property that is subject to the
 16 proposed use of the eminent domain power stating the time, date, and place of such
 17 meeting;

18 (2) Not less than 15 days before any meeting at which such resolution is to be considered
 19 mail notice to the property owner at the address of record and, if different from the
 20 property, to the parties in possession of the property, return receipt requested, or deliver
 21 such notice by statutory overnight delivery;

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

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

27 (d) Compliance with this Code section shall be in addition to and not in place of the
 28 requirements imposed by Chapter 1 of Title 22, except that the requirements set forth in
 29 this Code section shall satisfy the requirements provided in Code Section 22-1-11."

30 SECTION 6.

31 Said title is further amended by striking Code Section 8-4-8, relating to authorities acquiring
 32 and developing lands not within blighted areas for redevelopment projects, and inserting in
 33 its place a new Code section to read as follows:

34 "8-4-8.

35 (a) Upon a determination, by resolution, of the governing body of the city in which such
 36 land is located that the acquisition by purchase and development of undeveloped vacant

1 land, not within a blighted area, is essential to the proper clearance or redevelopment of
 2 blighted areas or a necessary part of the general slum clearance program of the city, the
 3 acquisition, planning, preparation for development, or disposal of such land shall constitute
 4 a redevelopment project which may be undertaken by the authority in the manner provided
 5 in this chapter. The determination by the governing body shall not be made until such body
 6 finds that there is a shortage of decent, safe, and sanitary housing in the city; that such
 7 undeveloped vacant land will be developed for predominantly residential uses; and that the
 8 provision of decent, safe, and sanitary housing on such undeveloped vacant land is
 9 necessary to the relocation of families to be displaced from blighted areas in the city which
 10 are under redevelopment.

11 (b) In the undertaking of redevelopment projects on a regional or unified metropolitan
 12 basis, which projects involve the acquisition by purchase and development of undeveloped
 13 vacant land in one city as an adjunct to the redevelopment of blighted areas in another city,
 14 each determination or finding required in this Code section shall be made by the governing
 15 body of the city with respect to which the determination or finding relates."

16 SECTION 7.

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

20 "22-1-1.

21 As used in this title, the term:

22 (1) 'Blight' shall have the same meaning as set forth in Code Section 8-4-3.

23 (2) 'Common carrier' means any carrier required by law to convey passengers or freight
 24 without refusal if the approved fare or charge is paid.

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

27 (A) Transfer of land to public ownership;

28 (B) Transfer of property to a private entity that is a public utility;

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

33 (D) Lease of property to private entities that occupy an incidental area within a public
 34 project; or

35 (E) The remedy of blight.

1 (4) 'Each person with a legal claim' means the owner of the property or of any remainder,
 2 reversion, mortgage, lease, security deed, or other claim in the property.

3 ~~(1)~~(5) 'Interest' means any title or nontitle interest other than fee simple title.

4 ~~(2)~~(6) 'Persons' means individuals, partnerships, associations, and corporations, domestic
 5 or foreign.

6 ~~(3)~~(7) 'Property' means fee simple title.

7 (8)(A) 'Public use' means:

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

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

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

13 (iv) The acquisition of property to cure an imminent, immediate, or ongoing harmful
 14 effect of the current use of the land, including the removal or abatement of public
 15 nuisances, structures that are beyond repair or that are unfit for human habitation or
 16 use, and the acquisition of abandoned property;

17 (v) The acquisition of property where, after a proceeding to quiet title, persons with
 18 an interest in the property remain unknown and unanimous consent is received from
 19 each person with a legal claim;

20 (vi) The remedy of blight;

21 (vii) The acquisition of property where persons with a legal claim unanimously
 22 consent to the acquisition; or

23 (viii) The remediation of blighted property for the purpose of creating a housing
 24 project as such term is defined in paragraph (10) of Code Section 8-3-3 which may
 25 include the transfer of ownership to private parties of residences within a housing
 26 project or use of a private enterprise agreement as defined in paragraph (13.1) of Code
 27 Section 8-3-3.

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

29 (9) 'Public utility' means any publicly, privately, or cooperatively owned line, facility,
 30 or system for producing, transmitting, or distributing communications, power, electricity,
 31 light, heat, gas, oil products, water, steam, clay, waste, storm water not connected with
 32 highway drainage, and other similar services and commodities, including publicly owned
 33 fire and police and traffic signals and street lighting systems, which directly or indirectly
 34 serve the public. This term also means a person, municipal corporation, county, state
 35 agency, or public authority which owns or manages a utility as defined in this paragraph.
 36 This term shall also include common carriers."

1 "22-1-3.

2 (a) It is the province of the General Assembly to determine when the right of eminent
3 domain may be exercised. If, however, under pretext of such necessity the General
4 Assembly should pass a law authorizing the taking of property for private use rather than
5 for public use, the courts should declare the law inoperative.

6 (b) The court presiding over the condemnation shall determine, as a matter of law, whether
7 the exercise of the power of eminent domain is for a public use. The condemning entity
8 bears the burden of proof by the evidence presented that the condemnation is for an
9 authorized public use."

10 SECTION 10.

11 Said title is further amended by inserting new Code sections to read as follows:

12 "22-1-9.

13 In order to encourage and expedite the acquisition of real property by agreements with
14 owners, to avoid litigation and relieve congestion in the courts, to assure consistent
15 treatment for property owners, and to promote public confidence in land acquisition
16 practices, all condemnations shall, to the greatest extent practicable, be guided by the
17 following policies and practices:

18 (1) The condemnor shall make every reasonable effort to acquire expeditiously real
19 property by negotiation;

20 (2) Where the condemnor seeks to obtain a fee simple interest in real property, real
21 property shall be appraised before the initiation of negotiations, and the owner or his or
22 her designated representatives shall be given an opportunity to accompany the appraiser
23 during his or her inspection of the property, except that the condemnor may, by law, rule,
24 regulation, or ordinance, prescribe a procedure to waive the appraisal in cases involving
25 the acquisition by sale or donation of property with a low fair market value;

26 (3) Before the initiation of negotiations for fee simple interest for real property the
27 condemnor shall establish an amount which the condemnor believes to be just
28 compensation and shall make a prompt offer to acquire the property for the full amount
29 so established. In no event shall such amount be less than the condemnor's independent
30 fee appraisal of the fair market value of such property. The condemnor shall provide the
31 owner of real property to be acquired with a written statement of, and summary of the
32 basis for, the amount he or she established as just compensation. Where appropriate, the
33 just compensation for the real property acquired and for damages to remaining real
34 property shall be separately stated;

35 (4) No owner shall be required to surrender possession of real property before the
36 condemnor pays the agreed purchase price or deposits with the court in accordance with

1 this title, for the benefit of the owner, an amount not less than the condemnor's appraisal
2 of the fair market value of such property or the amount of the award of compensation in
3 the condemnation proceeding for such property;

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

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

13 (7) In no event shall the condemnor either advance the time of condemnation or defer
14 negotiations or condemnation and the deposit of funds in court for the use of the owner
15 or take any other bad faith action in order to compel an agreement on the price to be paid
16 for the property;

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

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

25 22-1-10.

26 (a) Prior to the acquisition of any property pursuant to a redevelopment plan for blighted
27 property, the condemnor shall file a petition in the superior court of the county which
28 maintains jurisdiction over the property sought to be condemned. The petition shall set
29 forth the reasons for the condemnation and provide a copy of the redevelopment plan. The
30 condemnor shall provide notice of the petition to each person with a legal claim.

31 (b) The superior court shall determine, after notice and hearing, whether the condemnor
32 has the legal authority to exercise the power of eminent domain, including whether the
33 property identified by the condemnor is blighted. The condemnor shall have the burden
34 of proof.

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

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

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

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

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

10 22-1-11.

11 (a) Before any action to approve the condemnation of property, the condemnor shall
12 provide notice of such action to each person with a legal claim, other than governmental
13 bodies, by statutory overnight delivery or certified mail.

14 (b) After the notice described in subsection (a) of this Code section is provided, the
15 condemnor shall provide for a hearing of the condemnee or condemnees no less than 14
16 days after delivering or depositing the notice. The condemnor shall provide notice of the
17 hearing to each person with a legal claim. The hearing shall be held by the condemning
18 body authorized to institute the condemnation proceeding. If the condemnor is comprised
19 of several persons, a quorum of the condemning body must attend the hearing. The hearing
20 shall take place in the county of the property sought to be condemned. This subsection
21 shall not apply to condemnations by public utilities or the Department of Transportation.

22 (c) Except as provided in subsection (d) of this Code section, no action may be brought in
23 any court of this state until at least 30 days after the date of the hearing described in
24 subsection (b) of this Code section; provided, however, that this requirement shall not
25 apply to condemnations by public utilities or the Department of Transportation.

26 (d) If an emergency condition exists requiring the acquisition of property for the protection
27 of the public health and safety, the condemnor may declare the existence of an emergency
28 and adopt a resolution defining the emergency. Notice and hearing as required by this
29 Code section may be waived by the condemning body in an emergency condition.

30 (e) If the notice filed pursuant to this Code section includes affidavits from known and
31 located persons, each with a legal claim, and the affidavits state that each person with a
32 legal claim does not oppose the condemnation, a hearing as required by subsection (b) of
33 this Code section may be waived.

1 22-1-12.

2 In all actions where a condemnor exercises the power of eminent domain, the court having
3 jurisdiction of a proceeding instituted by a condemnor to acquire real property by
4 condemnation shall award the owner of any right or title to or interest in such real property
5 such sum as will in the opinion of the court reimburse such owner for his or her reasonable
6 costs and expenses, including reasonable attorney, appraisal, and engineering fees, actually
7 incurred because of the condemnation proceedings, if:

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

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

11 22-1-13.

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

14 (1) Actual reasonable expenses in moving himself or herself, his or her family, business,
15 farm operation, or other personal property;

16 (2) Actual direct losses of tangible personal property as a result of moving or
17 discontinuing a business or farm operation; and

18 (3) Such other relocation expenses as authorized by law.

19 22-1-14.

20 (a) When property is condemned under this title or any other title of this Code, the value
21 of the condemned property may be determined through lay or expert testimony and its
22 admissibility shall be addressed to the sound discretion of the court.

23 (b) If any party to a condemnation proceeding seeks to introduce expert testimony as to
24 the issue of just and adequate compensation, Code Section 24-9-67.1 shall not apply."

25 **SECTION 11.**

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

29 **SECTION 12.**

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

1 "22-2-100.

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

3 (1) The State of Georgia or any branch of the government of the State of Georgia;

4 (2) Any county or municipality of the State of Georgia;

5 (3) Any housing authority with approval of the governing authority as provided in Code
6 Section 8-4-4;

7 (4) Any other political subdivision of the State of Georgia which is vested with the
8 power of eminent domain; and

9 (5) All public utilities that possess the right or power of eminent domain. ~~All other~~
10 ~~persons possessing the right or power of eminent domain."~~

11 **SECTION 13.**

12 Said title is further amended by striking Code Section 22-2-102, relating to filing a petition
13 of condemnation and certain requirements and rights attached to said petition, and inserting
14 in its place a new Code section to read as follows:

15 "22-2-102.

16 (a) In addition to the requirements set forth in Chapter 1 of this title, whenever ~~Whenever~~
17 it is desirable, for any reason, to arrive at a quick and certain determination of the
18 compensation to be paid first to the condemnee for the taking or damaging of private
19 property, the condemnor shall:

20 (1) File ~~file~~ a petition in a superior court having jurisdiction for a judgment in rem
21 against the property or interest therein, as provided in Code Section 22-2-130.; and

22 (2) At or before the filing of the petition, the condemnor shall present a copy of the
23 petition to a judge of the superior court of the county wherein the property or interest
24 sought to be condemned is located. Thereupon, the judge shall have a hearing in court,
25 in chambers, or by telephone with the parties not less than ten days nor more than 30 days
26 from the filing of the petition to appoint a special master. After such hearing, the judge
27 shall make an order requiring the condemnor, the person in possession of the property or
28 interest, and ~~any other person known to have any rights in the property~~ each person with
29 a legal claim or interest to appear at a hearing before a special master at a time and place
30 specified in the order and to make known their rights, if any, in and to the property or
31 interest sought to be condemned, their claims as to the value of the property or interest,
32 and any other matters material to their respective rights. ~~Except in condemnations for~~
33 ~~purposes of constructing or expanding one or more electric transmission lines, the~~

34 (b) The hearing before the special master shall take place not less than ~~ten~~ 30 days nor
35 more than ~~15~~ 60 days after the date of ~~service~~ the entry of the order appointing the special
36 master. ~~In condemnations for purposes of constructing or expanding one or more electric~~

1 ~~transmission lines, the hearing before the special master shall take place not less than 30~~
 2 ~~days and not more than 40 days after the date of service of the order.~~

3 (c) The order shall give such directions for notice and the service thereof as are appropriate
 4 and as are consistent with this article, in such manner as to provide most effectively an
 5 opportunity to all parties at interest to be heard. In condemnations for purposes of
 6 constructing or expanding one or more electric transmission lines, in addition to service of
 7 the order, a copy of the order shall be mailed by certified mail or sent by statutory
 8 overnight delivery to any person shown by the public ad valorem tax records of the county
 9 in which the property is located to have an interest in the property and to any other person
 10 having open and obvious possession of the property. It shall not be necessary to attach any
 11 other process to the petition except the order so made, and the cause shall proceed as in
 12 rem."

13 **SECTION 14.**

14 Said title is further amended by striking Code Section 22-2-102.1, relating to petitioning
 15 superior court for judgment in rem in cases of eminent domain, and inserting in its place a
 16 new Code section to read as follows:

17 "22-2-102.1.

18 (a) In addition to the requirements set forth in Chapter 1 of this title, whenever ~~Whenever~~
 19 it shall be necessary for such condemning body to take or damage private property, or any
 20 interest or easement therein, in pursuance of any law so authorizing, for any public ~~purpose~~
 21 use, and where, by reason of the necessities of the public needs, ~~of which the condemning~~
 22 ~~body shall be the exclusive judge, and~~ it shall be desirable for these reasons to have a quick
 23 and effective adjudication of the just and adequate compensation to be paid the owner or
 24 owners of such property before taking the same, and it shall be desirable to have a judicial
 25 ascertainment and judicial supervision of all questions and proceedings connected with the
 26 matter, such condemning body may, through any authorized representative, petition the
 27 superior court of the county having jurisdiction, for a judgment in rem against said
 28 property, or any easement or other interest in said property, condemning the same in fee
 29 simple to the use of the petitioner upon payment of just and adequate compensation
 30 therefor.

31 (b) A public utility exercising the right of eminent domain as prescribed by this title shall
 32 be the exclusive judge of public need and necessity absent bad faith or the condemnor
 33 acting beyond the powers conferred upon it by law."

1 connection with the inspection, provided that the special master shall file an affidavit with
 2 the court showing his or her time spent in inspection and itemizing his or her expenses."

3 **SECTION 17.**

4 Said title is further amended by striking Code Section 22-2-110, relating to the award of the
 5 special master in a condemnation hearing and the form used therein, and inserting in its place
 6 a new Code section to read as follows:

7 "22-2-110.

8 (a) The award of the special master or the special master panel, in the event such a panel
 9 exists, shall be filed with the clerk of the superior court of the county where the property
 10 or interest is situated within three days after the date on which such hearing is completed.

11 (b) The award shall become a part of the record of the proceedings in said matter and shall
 12 condemn and vest title to the property or other interest in the condemning body upon the
 13 deposit by that body of the amount of the award into the registry of the court, subject to the
 14 demand of such condemnee or condemnees, according to their respective interests.

15 (c) The award shall be in the following form:

16 **AWARD**

17 The special master appointed and chosen by the court to hear evidence and give full
 18 consideration to all matters touching upon the value of the property or interest sought to
 19 be condemned, as shown by the description of the property or interest in the case of
 20 _____ (condemning body) versus _____
 21 (acres of land or other described interest in said land) and _____
 22 (condemnee), Civil action file no. _____ in superior court, having first taken the oath as
 23 required by law of the special master, the same having been filed with the clerk of the
 24 Superior Court of _____ County, and the special master panel, in the event such
 25 a panel exists, having heard evidence under oath and given consideration to the value of
 26 such property or interest on the _____ day of _____, at ____:____.M., as
 27 provided for in the order of the court, do decide and recommend to the court as follows:

28 (1) I/We find and award to _____, condemnee, the sum of \$_____, as
 29 the actual market value of the property or interest sought to be condemned;

30 (2) I/We find consequential damages to the remaining property or interest in the
 31 amount of \$_____;

32 (3) I/We find consequential benefits to the remaining property or interest in the amount
 33 of \$_____ (never to exceed the amount of the consequential damages);

1 (4) I/We find and award to _____, condemnee, the sum of \$ _____, as
2 the value of any associated moving costs;

3 ~~(4)~~(5) Balancing the consequential benefits against the consequential damages, I/we
4 find and award to the condemnee in this case in the total sum of \$_____, and I/we
5 respectfully recommend to the court that the said property or interest be condemned by
6 a judgment in rem to the use of the condemnor upon the payment of the last stated sum
7 into the registry of the court, subject to the demands of the condemnee.

8 This _____ day of _____, _____.

9 _____
10 Special Master

11 _____
12 Assessor

13 _____
14 Assessor

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

20 **SECTION 18.**

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

24 "22-2-112.

25 (a) If the condemnor or any condemnee is dissatisfied with the amount of the award, an
26 appeal shall be filed within ten days from the entry of the award to the superior court of the
27 county where the award is filed and the mailing of the award to the parties. ~~In case any~~
28 ~~party is dissatisfied with the amount of the award, he or she may, within ten days after the~~
29 ~~award is filed, enter in writing an appeal from the award to the superior court of the county~~
30 ~~where the award is filed. The provisions of Code Section 22-2-84.1, relating to reasonable~~
31 ~~expenses incurred on appeal, shall apply to any appeal under this Code section.~~ At the term
32 succeeding the filing of the appeal, it shall be the duty of the judge to cause an issue to be
33 made and tried by a jury as to the value of the property or interest taken or the amount of
34 damage done, with the same right to move for a new trial and file an appeal as in other

1 cases at law. The entering of an appeal and the proceedings thereon shall not hinder or
2 delay in any way the condemnor's work or the progress thereof.

3 (b) The condemnee shall have the right to a jury trial on the issue of just and adequate
4 compensation before the superior court having jurisdiction over the property sought to be
5 condemned during the next term of court following the vesting of title in the condemnor.
6 This right may be waived by the condemnee."

7 SECTION 19.

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

11 "22-2-131.

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

13 (1) The facts showing the right to condemn;

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

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

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

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

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

22 ~~(6)(7)~~ A prayer for such judgment of condemnation as may be proper and desired.

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

25 SECTION 20.

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

29 "22-2-132.

30 (a) Upon presentation of the petition, the presiding judge ~~may~~ shall issue an order
31 requiring the condemnor, the owner of the property or of any interest therein, and the
32 representative of any owner to appear at a time and place named in the order and make
33 known their objections if any, rights, or claims as to the value of the property or of their
34 interest therein, and any other matters material to their respective rights; provided,
35 however, that if the petition includes affidavits from known and located persons with a

1 legal claim, stating that such condemnees do not oppose the condemnation, no hearing
 2 pursuant to this Code section shall be required.

3 (b) The day named in the order shall be as early as may be convenient but shall be no less
 4 than 20 days from the date of the petition, due regard being given to the necessities of
 5 notice.

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

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

9 **SECTION 21.**

10 Said title is further amended by striking in its entirety Code Section 22-3-60, relating to
 11 persons constructing and operating waterworks authorized to lease, purchase, or condemn
 12 property or interests, and inserting in lieu thereof a new Code Section 22-3-60 to read as
 13 follows:

14 "22-3-60.

15 Any nongovernmental entity constructing, owning, or operating any waterworks or sanitary
 16 sewerage system, or both, in this state shall have the right, power, privilege, and authority
 17 to lease, purchase, or condemn property or any interest therein, including easements, or to
 18 receive donations or grants of property or any interest therein, including easements, for the
 19 purpose of constructing and operating a waterworks, a water distribution system, a
 20 sewerage collection system, or a sewage treatment and disposal system, or any combination
 21 of such systems or facilities; provided, however, that prior to condemning property in any
 22 political subdivision, any such entity shall first obtain the consent of the governing
 23 authority of such political subdivision, ~~which consent may~~ after the requirements of
 24 Chapter 1 of this title have been satisfied. Consent shall be granted by resolution or
 25 ordinance."

26 **SECTION 22.**

27 Said title is further amended by striking in its entirety Code Section 22-3-63, relating to
 28 authority to condemn property for the purpose of constructing a waterworks, water
 29 distribution system, sewage collection system, or sewage treatment and disposal system, and
 30 inserting in lieu thereof a new Code Section 22-3-63 to read as follows:

31 "22-3-63.

32 Any other provision of law to the contrary notwithstanding, any nongovernmental entity
 33 which:

34 (1) Is privately owned and is operated under the collective management and control of
 35 the owners;

1 (2) Was in the business of providing water supply and sewerage collection and disposal
 2 prior to July 1, 1978;
 3 (3) Has continuously owned a sanitary sewerage system since July 1, 1978, permitted by
 4 the Environmental Protection Division of the Department of Natural Resources; and
 5 (4) On May 1, 2000, owns and operates one or more sewerage collection treatment and
 6 disposal systems serving 1,000 or more customers
 7 shall have the authority to condemn property or any interest therein, including easements,
 8 for the purpose of constructing and operating a waterworks, a water distribution system,
 9 a sewerage collection system, or a sewage treatment and disposal system, or any
 10 combination of such systems or facilities; provided, however, that such authority shall
 11 obtain the consent of the governing authority of the county or municipality that controls the
 12 land sought to be condemned in accordance with Code Section 22-3-60. The authority
 13 granted by this Code section shall extend only to such counties and those counties
 14 immediately adjacent to such counties in which such entity owned or operated such
 15 waterworks or systems or combination as of January 1, 2000; and provided, further, that
 16 the authority provided for in this Code section shall terminate with respect to any entity if
 17 any interest in such business is transferred to another person or entity except through
 18 inheritance."

19 **SECTION 23.**

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

23 "22-4-3.

24 The definitions contained in paragraphs ~~(1) and (3)~~ (5) and (7) of Code Section 22-1-1 shall
 25 not apply to this chapter."

26 **SECTION 24.**

27 Title 23 of the Official Code of Georgia Annotated, relating to equity, is amended by adding
 28 a new Code section to read as follows:

29 "23-3-73.

30 All municipalities, counties, and housing authorities shall have standing pursuant to this
 31 part."

SECTION 25.

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by striking subparagraph (C) of paragraph (3) of Code Section 36-41-2, relating to legislative findings and declaration of public necessity, and inserting in lieu thereof the following:

"(C) Provide for the efficient and well-planned growth and development of the large municipalities, including the elimination and prevention of ~~slum areas and blight~~ blighted properties, and for the proper coordination of industrial facilities with public services, mass transportation facilities, and residential development, by providing an incentive for home ownership within the geographical limits of the large municipalities;"

SECTION 26.

Said title is further amended by striking subsection (b) of Code Section 36-42-8, relating to the powers of downtown development authorities generally, and inserting a new subsection (b) to read as follows:

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

SECTION 27.

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

SECTION 28.

Said title is further amended by repealing subsection (c) of Code Section 36-44-6, relating to a redevelopment agency's ability to delegate the power of eminent domain, which reads as follows:

"(c) A downtown development authority which has been designated as a redevelopment agency pursuant to this chapter may exercise the powers of eminent domain subject to the procedures established in Chapter 42 of this title."

1 (A) Acquisition of blighted property or a portion thereof;

2 (B) Rehabilitation or demolition and removal of buildings and improvements;

3 (C) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds,
4 and other improvements necessary for carrying out in the area the urban redevelopment
5 provisions of this chapter in accordance with the urban redevelopment plan; and

6 (D) Making the land available for development or redevelopment by private enterprise
7 or public agencies (including sale, initial leasing, or retention by the municipality or
8 county itself) at its fair value for uses in accordance with the urban redevelopment
9 plan."

10 "(17) 'Rehabilitation' or 'conservation' may include the restoration and redevelopment of
11 a ~~slum area~~ blighted property or a portion thereof, in accordance with an urban
12 redevelopment plan, by:

13 (A) Carrying out plans for a program of voluntary or compulsory repair and
14 rehabilitation of buildings or other improvements;

15 (B) Acquisition of real property and rehabilitation or demolition and removal of
16 buildings and improvements thereon where necessary to eliminate unhealthful,
17 unsanitary, or unsafe conditions, to lessen density, to reduce traffic hazards, to
18 eliminate obsolete or other uses detrimental to the public welfare, to otherwise remove
19 or prevent the spread of slums or deterioration, or to provide land for needed public
20 facilities;

21 (C) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds,
22 and other improvements necessary for carrying out in the area the urban redevelopment
23 provisions of this chapter; and

24 (D) The disposition of any property acquired in such urban redevelopment area,
25 including sale, initial leasing or retention by the municipality or county itself, at its fair
26 value for uses in accordance with the urban redevelopment plan.

27 ~~(18) 'Slum area' means an area in which there is a predominance of buildings or~~
28 ~~improvements, whether residential or nonresidential, which by reason of dilapidation,~~
29 ~~deterioration, age, or obsolescence; inadequate provision for ventilation, light, air,~~
30 ~~sanitation, or open spaces; high density of population and overcrowding; existence of~~
31 ~~conditions which endanger life or property by fire and other causes; or any combination~~
32 ~~of such factors is conducive to ill health, transmission of disease, infant mortality,~~
33 ~~juvenile delinquency, or crime and is detrimental to the public health, safety, morals, or~~
34 ~~welfare. 'Slum area' also means an area which by reason of the presence of a substantial~~
35 ~~number of slum, deteriorated, or deteriorating structures; predominance of defective or~~
36 ~~inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility, or~~
37 ~~usefulness; unsanitary or unsafe conditions; deterioration of site or other improvements;~~

1 tax or special assessment delinquency exceeding the fair value of the land; the existence
 2 of conditions which endanger life or property by fire and other causes; by having
 3 development impaired by airport or transportation noise or by other environmental
 4 hazards; or any combination of such factors substantially impairs or arrests the sound
 5 growth of a municipality or county, retards the provisions of housing accommodations,
 6 or constitutes an economic or social liability and is a menace to the public health, safety,
 7 morals, or welfare in its present condition and use. Reserved.

8 (19) ~~'Slum clearance and redevelopment' may include:~~

9 (A) ~~Acquisition of a slum area or portion thereof;~~

10 (B) ~~Rehabilitation or demolition and removal of buildings and improvements;~~

11 (C) ~~Installation, construction, or reconstruction of streets, utilities, parks, playgrounds,
 12 and other improvements necessary for carrying out in the area the urban redevelopment
 13 provisions of this chapter in accordance with the urban redevelopment plan; and~~

14 (D) ~~Making the land available for development or redevelopment by private enterprise
 15 or public agencies (including sale, initial leasing, or retention by the municipality or
 16 county itself) at its fair value for uses in accordance with the urban redevelopment plan.~~

17 Reserved.

18 (20) 'Urban redevelopment area' means ~~a slum area~~ blighted property which the local
 19 governing body designates as appropriate for an urban redevelopment project."

20 "(22) 'Urban redevelopment project' may include undertakings or activities of a
 21 municipality or county in an urban redevelopment area for the elimination and for the
 22 prevention of the development or spread of ~~slums~~ blighted properties and may involve
 23 ~~slum~~ clearance of blighted property clearance and redevelopment in an urban
 24 redevelopment area, rehabilitation or conservation in an urban redevelopment area, or any
 25 combination or part thereof, in accordance with an urban redevelopment plan. Although
 26 the power of eminent domain may not be exercised for such purposes, such undertakings
 27 or activities may include:

28 (A) Acquisition, without regard to any requirement that the area be a ~~slum or blighted~~
 29 ~~area~~ property, of air rights in an area consisting of lands and highways, railway or
 30 subway tracks, bridge or tunnel entrances, or other similar facilities which have a
 31 blighting influence on the surrounding area and over which air rights sites are to be
 32 developed for the elimination of such blighting influences and for the provision of
 33 housing and related facilities and uses designed for, and limited primarily to, families
 34 and individuals of low or moderate income; and

35 (B) Construction of foundations and platforms necessary for the provision of air rights
 36 sites of housing and related facilities and uses designed for, and limited primarily to,
 37 families and individuals of low or moderate income or construction of foundations

1 necessary for the provision of air rights sites for development of nonresidential
2 facilities."

3 **SECTION 31.**

4 Said title is further amended by striking subsection (c) of Code Section 36-61-7, relating to
5 the preparation of a redevelopment plan, and inserting new subsection (c) to read as follows:

6 "(c) The local governing body of the municipality or county shall hold ~~or shall cause some~~
7 ~~agency of the municipality or county to hold~~ a public hearing on an urban redevelopment
8 plan or a substantial modification of an approved urban redevelopment plan, after public
9 notice thereof by publication in a newspaper having a general circulation in the area of
10 operation of the municipality or county. The notice shall describe the time, date, place, and
11 purpose of the hearing, shall generally identify the urban redevelopment area covered by
12 the plan, and shall outline the general scope of the urban redevelopment project under
13 consideration."

14 **SECTION 32.**

15 Said title is further amended by striking Code Section 36-61-9, relating to the use of the
16 power of eminent domain in urban redevelopment, and inserting in its place a new Code
17 section to read as follows:

18 "36-61-9.

19 (a) Except as otherwise provided in subsection (c) of this Code section, a municipality or
20 county shall have the right to acquire, by exercise of the power of eminent domain, any real
21 property which ~~it~~ the governing authority may deem necessary for ~~its purposes under this~~
22 ~~chapter~~ the remedy of blight, after the adoption by it of a resolution declaring that the
23 acquisition of the real property described therein is necessary for such purposes. A
24 municipality or county may exercise the power of eminent domain in the manner provided
25 in Title 22; ~~or it may exercise the power of eminent domain in the manner provided by any~~
26 ~~other applicable statutory provisions for the exercise of the power of eminent domain and~~
27 in the manner set forth in this chapter. Property already devoted to a public use may be
28 acquired, provided that no real property belonging to the municipality, the county, the state,
29 or any political subdivision thereof may be acquired without its consent.

30 (b) Whenever condemnation proceedings are instituted and carried on by a municipality
31 or county in accordance with subsection (a) of this Code section ~~or through any other~~
32 ~~method of condemnation provided by law~~, upon the payment by the municipality or county
33 seeking condemnation of the amount of the award and final judgment on appeal the
34 municipality or county shall become vested with a fee simple indefeasible title to the
35 property to which the condemnation proceedings relate. Such payment may be offset in

1 whole or in part by the amount of any municipal or county tax liens on the condemned
 2 property and by any existing special assessments tax liens on the condemned property,
 3 including without limitation education or special district taxes collected by the municipality
 4 or county; provided, however, that any such setoff shall be subject to any existing tax liens
 5 having higher priority pursuant to Code Section 48-2-56 and to the interest in the
 6 condemned property of any known beneficiary of a year's support pursuant to Code
 7 Section 53-5-2 of the 'Pre-1998 Probate Code,' if applicable, or Code Sections 53-3-1,
 8 53-3-2, 53-3-4, 53-3-5, and 53-3-7 of the 'Revised Probate Code of 1998'; provided,
 9 further, that where the condemned property is subject to a valid deed to secure debt, such
 10 setoff shall only be allowed for tax liens which arose as a result of an assessment against
 11 such property. It is declared to be necessary, to enable such municipalities and counties
 12 to exercise their powers under this Code section, that upon the condemnation proceedings
 13 being had, the municipalities and counties shall become vested with fee simple indefeasible
 14 title to the property involved in the proceedings.

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

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

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

26 (3) The governing body of the municipality or county shall:

27 (A) Not less than 15 days before any meeting at which such resolution is to be
 28 considered post a sign, if possible, in the right of way adjacent to each property that is
 29 subject to the proposed use of the eminent domain power stating the time, date, and
 30 place of such meeting;

31 (B) Not less than 15 days before any meeting at which such resolution is to be
 32 considered mail notice to the property owner at the address of record, and if different
 33 from the property owner, to the parties in possession of the property, return receipt
 34 requested, or deliver such notice by statutory overnight delivery;

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

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

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

12 (B) Notice of proposed condemnations under a redevelopment plan shall:

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

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

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

18 ~~(4)~~(5) The owner of the property may execute an agreement with the municipality or
 19 county to rehabilitate the property in accordance with the urban redevelopment plan. Any
 20 such agreement shall be as the municipality or county deems necessary and appropriate
 21 as to form and content; in connection therewith, the municipality or county shall have the
 22 right to require sufficient performance, payment, and completion bonds. In the event that
 23 any such owner, at any time, fails to comply with or defaults in the performance of the
 24 provisions of the agreement, such property shall no longer be subject to the agreement,
 25 the option provided by paragraph (3) of this subsection shall no longer apply, and the
 26 property may be acquired by the municipality or county by purchase or through the
 27 exercise of the power of eminent domain. In the alternative, the municipality or county
 28 may either specifically enforce the agreement, exercise any rights under any bonds which
 29 may have been required, and obtain any other legal or equitable relief as may be available
 30 to the municipality or county or, if the owner fails to exercise the option to rehabilitate
 31 the property or defaults on the agreement to rehabilitate the property, the municipality or
 32 county may implement those portions of the urban development plan with respect to such
 33 property to the extent the municipality or county deems necessary and the costs of
 34 implementing such plan shall be a lien against the property enforceable in the same
 35 manner as tax liens.

1 (d) Compliance with this Code section shall be in addition to and not in place of the
 2 requirements imposed by Title 22; provided, however, the requirements set forth in this
 3 Code section shall satisfy the requirements provided in Code Section 22-1-11."

4 **SECTION 33.**

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

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

10 **SECTION 34.**

11 Said title is further amended by striking paragraph (1) of subsection (a) of Code Section
 12 36-82-62, relating to power as to undertakings and issuance of revenue bonds by government
 13 bodies, and inserting in its place a new paragraph (1) to read as follows:

14 "(1) To acquire, by gift, purchase, or the exercise of the right of eminent domain, and to
 15 construct, to reconstruct, to improve, to better, and to extend any undertaking wholly
 16 within or wholly outside the governmental body or partially within and partially outside
 17 the governmental body; and to acquire, by gift, purchase, or the exercise of the right of
 18 eminent domain, lands, easements, rights in lands, and water rights in connection
 19 therewith. Each exercise of eminent domain pursuant to this chapter shall be approved
 20 by resolution of the governing authority of the city within which the property is located,
 21 if any, or otherwise by the governing authority of the county within which the property
 22 is located. A government authority acting under this Code section shall notify the
 23 property owner pursuant to Code Section 36-82-86;".

24 **SECTION 35.**

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

26 "36-82-86.

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

28 (1) Not less than 15 days before any meeting at which such resolution is to be considered
 29 post a sign, if possible, in the right of way adjacent to each property that is subject to the
 30 proposed use of the eminent domain power stating the time, date, and place of such
 31 meeting;

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

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

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

6 SECTION 36.

7 Title 8 of the Official Code of Georgia Annotated, relating to buildings and housing, is
 8 amended in Code Section 8-3-3, relating to definitions, by inserting a new paragraph (2.1)
 9 to read as follows:

10 "(2.1) 'Blight' or 'blighted property' means:

11 (A) Any urbanized or developed property which, as shown by government maintained
 12 statistics or other studies:

13 (i) Presents one or more of the following conditions:

14 (I) Uninhabitable, unsafe, or abandoned structures;

15 (II) Inadequate provisions for ventilation, light, air, sanitation, or open spaces;

16 (III) An imminent harm to life or other property caused by fire, flood, hurricane,
 17 tornado, earthquake, storm, or other natural catastrophe respecting which the
 18 Governor has declared a state of emergency under state law or has certified the need
 19 for disaster assistance under federal law;

20 (IV) A site identified by the federal Environmental Protection Agency as a
 21 Superfund site pursuant to 42 U.S.C. Section 9601, et seq., or environmental
 22 contamination to an extent that requires remedial investigation or a feasibility
 23 study; or

24 (V) Repeated illegal use of individual structures and the maintenance of the
 25 property is below state, county, or municipal codes for at least one year after notice
 26 of the code violation; and

27 (ii) Is conducive to ill health, transmission of disease, infant mortality, juvenile
 28 delinquency, or crime in the redevelopment project area's present condition and use.

29 Property which may be deemed esthetically substandard or deteriorating shall not meet
 30 the definition of blighted property unless the overall condition of the property results
 31 in ill health, transmission of disease, infant mortality, juvenile delinquency, or crime;
 32 or

33 (B) Property having tax liens or special assessment delinquency exceeding the fair
 34 market value of the property."

SECTION 37.

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by striking the term "slum area" and inserting in its place the term "blighted property" wherever the former occurs in:

(1) Code Section 36-61-7, relating to preparation of redevelopment plan, approval, modification, and effect of approval; and

(2) Code Section 36-61-17, relating to exercise of redevelopment powers by municipalities and counties and delegation to redevelopment agency or housing authority.

SECTION 38.

Said title is further amended by striking the term "slum areas" and inserting in its place the term "blighted properties" wherever the former occurs in:

(1) Code Section 36-61-5, relating to resolution of necessity prerequisite to exercise of urban redevelopment powers;

(2) Code Section 36-61-6, relating to formulation of workable program for urban redevelopment; and

(3) Code Section 36-61-10, relating to disposal of property in redevelopment area generally, notice and bidding procedures, exchange with veterans' organization, and temporary operation of property.

SECTION 39.

Said title is further amended by striking the term "slums" and inserting in its place the term "blighted properties" wherever the former occurs in:

(1) Code Section 36-61-6, relating to formulation of workable program for urban redevelopment; and

(2) Code Section 36-61-10, relating to disposal of property in redevelopment area generally, notice and bidding procedures, exchange with veterans' organization, and temporary operation of property.

SECTION 40.

Said title is further amended by striking paragraphs (1), (6), and (9) of Code Section 36-61-8, relating to redevelopment powers of municipalities and counties generally, and inserting new paragraphs (1), (6), and (9) to read as follows:

"(1) To undertake and carry out urban redevelopment projects within its area of operation; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this chapter; and to disseminate ~~slum~~ clearance of blighted property and urban redevelopment information;"

