

## SENATE SUBSTITUTE TO HB 1313

**AS PASSED SENATE**

A BILL TO BE ENTITLED

AN ACT

1 To amend Titles 8, 22, 23, and 36 of the Official Code of Georgia Annotated, relating to  
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 fees in certain cases challenging the  
11 use of eminent domain; to provide certain exemptions to the applicability of the power of  
12 eminent domain to public utilities; to provide for certain changes regarding eminent domain  
13 to require a public use; to change certain provisions regarding when the use of eminent  
14 domain is allowed; to provide guidelines for the use of condemnation; to provide for practice  
15 and procedure relative to condemnation; to provide for testimony relative to the value of  
16 condemned property; to provide for expedited hearings; to provide that the Department of  
17 Community Affairs produce a standard notice of rights form; to repeal provisions relating  
18 to certain appeals from assessor's awards; to change compensation for special masters; to  
19 change provisions relating to the right of appealing the award of the special master in  
20 condemnation proceedings; to change provisions relating to the use of condemnation for  
21 waterworks; to grant standing to municipalities, counties, and housing authorities to seek  
22 certain equitable remedies and proceedings; to provide for certain notification requirements;  
23 to provide for certain restrictions regarding the use of eminent domain under or in connection  
24 with a redevelopment plan and urban redevelopment; to change certain provisions regarding  
25 who must conduct public hearings relating to redevelopment plans; to provide for  
26 reconveyance of condemned property under certain circumstances; to provide for  
27 reimbursement of reasonable costs and expenses incurred because of condemnation  
28 proceedings; to provide for certain exemptions; to provide for revisions for purposes of

1 conformity; to provide for related matters; to provide for an effective date and for  
 2 applicability; 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 Landowner's Bill of Rights and Private  
 6 Property Protection Act."

7 **SECTION 2.**

8 Title 8 of the Official Code of Georgia Annotated, relating to buildings and housing, is  
 9 amended by striking Code Section 8-3-10, relating to vesting of fee simple title upon a  
 10 housing authority's exercise of power of eminent domain, and inserting in its place a new  
 11 Code section to read as follows:

12 "8-3-10.

13 Whenever a housing authority is or has been created under the terms of this article, and  
 14 whenever it is determined by the commissioners or other governing body of such authority  
 15 to be necessary or advisable to exercise the power of eminent domain by condemning  
 16 property, and whenever the governing authority of the city or county has approved by  
 17 resolution such exercise of eminent domain authority, and whenever such condemnation  
 18 proceedings are instituted and carried on under Chapter 2 of Title 22 ~~or through any other~~  
 19 ~~method of condemnation provided by law~~, then upon the payment by such authority  
 20 seeking condemnation of the amount of the award, or the amount of the final judgment on  
 21 appeal, such authority shall become vested with a fee simple indefeasible title to the  
 22 property to which such condemnation proceedings relate. It is declared to be necessary in  
 23 order to enable such authorities to exercise their franchise that, upon such condemnation  
 24 proceedings being had, such housing authorities shall become vested with fee simple  
 25 indefeasible title to the property involved in such proceedings."

26 **SECTION 3.**

27 Said title is further amended in Code Section 8-3-30, relating to general powers of housing  
 28 authorities, by striking paragraph (4) of subsection (a) and inserting in its place a new  
 29 paragraph (4) to read as follows:

30 "(4) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures,  
 31 or facilities embraced in any housing project and, subject to the limitations contained in  
 32 this article, to establish and revise the rents or charges therefor; to own, hold, and  
 33 improve real or personal property; to purchase, lease, obtain options upon, or acquire by

1 gift, grant, bequest, devise, or otherwise any real or personal property or any interest  
 2 therein; to acquire by the exercise of the power of eminent domain upon approval by  
 3 resolution of the governing authority of the city or county any real property that is  
 4 blighted in accordance with Chapter 4 of this title; to sell, lease, exchange, transfer,  
 5 assign, pledge, or dispose of any real or personal property or any interest therein; to  
 6 insure or provide for the insurance of any real or personal property or operations of the  
 7 authority against any risks or hazards; to procure insurance or guarantees from the federal  
 8 government of the payment of any debts or parts thereof, whether or not incurred by said  
 9 authority, secured by mortgages on any property included in any of its housing projects;"

#### 10 SECTION 4.

11 Said title is further amended by striking Code Section 8-3-31, relating to the eminent domain  
 12 power of a housing authority, and inserting in its place a new Code section to read as follows:

13 "8-3-31.

14 An authority shall have the right to acquire by the exercise of the power of eminent domain  
 15 any real property which is blighted property and is ~~which it may deem~~ necessary for its  
 16 purposes under this article ~~after the adoption by it of a resolution declaring that the~~  
 17 ~~acquisition of the real property described therein is necessary for such purposes~~ upon  
 18 approval by resolution of the governing authority of the city or county within which the  
 19 property is located and in accordance with Chapter 4 of this title. ~~An authority may~~  
 20 ~~exercise the power of eminent domain in the manner provided in Title 22; or it may~~  
 21 ~~exercise the power of eminent domain in the manner provided by any other applicable~~  
 22 ~~statutory provisions for the exercise of the power of eminent domain.~~ Property already  
 23 devoted to a public use may be acquired, except that no real property belonging to the city,  
 24 the county, the state, or any political subdivision thereof may be acquired without the  
 25 consent of such city, county, state, or other political subdivision."

#### 26 SECTION 5.

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

29 "8-4-2.

30 It is found and declared:

- 31 (1) That there exist in many communities within this state blighted ~~areas~~ properties, as  
 32 defined in Code Section 8-4-3, or ~~areas~~ properties in the process of becoming blighted;  
 33 (2) That ~~such areas impair economic values and tax revenues; that such areas~~ properties  
 34 cause an increase in and spread of disease ~~and~~ or crime and constitute a menace to the  
 35 health, safety, morals, and welfare of the residents of the state; that these conditions

1 necessitate excessive and disproportionate expenditures of public funds for crime  
 2 prevention and punishment, public health and safety, fire and accident protection, and  
 3 other public services and facilities;

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

8 (4) That ~~there are also certain areas where the condition of the title, the diverse~~  
 9 ownership of the land to be assembled, the street or lot layouts, or other conditions  
 10 ~~prevent a proper development of the land~~ which cloud title prevent the free transfer of  
 11 property; that it is in the public interest that ~~such areas, as well as~~ blighted areas,  
 12 properties be acquired by eminent domain and made available for sound and wholesome  
 13 development in accordance with a redevelopment plan; and that the exercise of the power  
 14 of eminent domain by the governing authorities of cities and counties and the financing  
 15 of the acquisition and preparation of land by a public agency for such redevelopment is  
 16 likewise a public use and purpose;

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

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

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

## 28 SECTION 6.

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

31 "8-4-3.

32 As used in this chapter, the term:

33 (1) 'Blighted areas' means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (1) 'Blighted property,' 'blighted,' or 'blight' means any urbanized or developed property  
26 which:

27 (A) Presents two or more of the following conditions:

28 (i) Uninhabitable, unsafe, or abandoned structures;

29 (ii) Inadequate provisions for ventilation, light, air, or sanitation;

30 (iii) An imminent harm to life or other property caused by fire, flood, hurricane,  
31 tornado, earthquake, storm, or other natural catastrophe respecting which the

32 Governor has declared a state of emergency under state law or has certified the need  
33 for disaster assistance under federal law; provided, however, that no property owner

34 who has taken positive steps within one year of the natural catastrophe to protect his  
35 or her property in such circumstances shall be subject to condemnation;

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

4 (v) Repeated illegal use of individual properties; or

5 (vi) The maintenance of the property is below state, county, or municipal codes for  
 6 at least one year after notice of the code violation; and

7 (B) Is conducive to ill health, transmission of disease, infant mortality, or crime in the  
 8 immediate proximity of the property.

9 Such conditions shall be shown by studies, including but not limited to, government  
 10 maintained statistics. Property shall not be deemed blighted solely because of esthetic  
 11 conditions.

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

19 (3) 'Redevelopment project' means:

20 (A) Any work or undertaking to acquire blighted property ~~areas or portions thereof,~~  
 21 including lands, structures, or improvements, the acquisition of which is necessary or  
 22 incidental to the proper clearance, development, or redevelopment of such blighted  
 23 ~~areas~~ properties or to the prevention of the spread or recurrence of ~~such~~ blighted  
 24 ~~conditions or conditions of blight;~~

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

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

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

36 **SECTION 7.**

1 Said title is further amended by striking Code Section 8-4-4, relating to the powers of  
2 housing authorities, and inserting in its place a new Code section to read as follows:

3 "8-4-4.

4 (a) Any housing authority established pursuant to Article 1 of Chapter 3 of this title, the  
5 'Housing Authorities Law,' is authorized to prepare or cause to be prepared redevelopment  
6 plans and to undertake redevelopment projects within its area of operation, in accordance  
7 with this chapter. In undertaking such redevelopment projects, a housing authority shall  
8 have all the rights, powers, privileges, and immunities that such authority has under Article  
9 1 of Chapter 3 of this title, the 'Housing Authorities Law,' and any other provision of law  
10 relating to ~~slum~~ blight clearance and housing projects for persons of low income, including,  
11 without limiting the generality of the foregoing, the power to make and execute contracts,  
12 to issue bonds and other obligations and give security therefor, to acquire real property by  
13 purchase or by eminent domain ~~or purchase after the governing authority of the city or~~  
14 county within which the property is located has approved the acquisition by resolution  
15 pursuant to subsection (b) and provided notice pursuant to subsection (c) of this Code  
16 section, and to do any and all things necessary to carry out projects in the same manner as  
17 though all of the provisions of law applicable to ~~slum~~ blight clearance and housing projects  
18 were applicable to redevelopment projects undertaken under this chapter, provided that  
19 nothing contained in Code Sections 8-3-11 and 8-3-12 shall be construed as limiting the  
20 power of an authority, in the event of a default by a purchaser or lessee of land in a  
21 redevelopment plan, to acquire property and operate it free from the restrictions contained  
22 in said Code sections.

23 (b) For property located within a city, the exercise of eminent domain shall be approved  
24 by resolution by the governing authority of the city. For property located in an  
25 unincorporated area of a county, the exercise of eminent domain shall be approved by  
26 resolution by the governing authority of the county. Any such resolution shall specifically  
27 and conspicuously delineate each parcel to be affected.

28 (c) The governing authority of any city or county acting under this Code section shall:

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

33 (2) Serve the condemnee personally by a sheriff or deputy with notice of the meeting not  
34 less than 15 days before any meeting at which such resolution is to be considered, unless  
35 service is acknowledged or waived by the condemnee. If after all efforts made to serve  
36 notice to the condemnee under this paragraph are unsuccessful, service of notice may be  
37 satisfied by mail or statutory overnight delivery to the property owner at the address of

1 record and, if different from the property owner, to the parties in possession of the  
 2 property, return receipt requested;

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

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

8 Any such resolution shall specifically and conspicuously delineate each parcel to be  
 9 affected.

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

### 13 SECTION 8.

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

17 "8-4-8.

18 (a) Upon a determination, by resolution, of the governing body of the city in which such  
 19 land is located that the acquisition by purchase and development of undeveloped vacant  
 20 land, not within a blighted area, is essential to the proper clearance or redevelopment of  
 21 blighted areas or a necessary part of the general slum clearance program of the city, the  
 22 acquisition by purchase, planning, preparation for development, or disposal of such land  
 23 shall constitute a redevelopment project which may be undertaken by the authority in the  
 24 manner provided in this chapter. The determination by the governing body shall not be  
 25 made until such body finds that there is a shortage of decent, safe, and sanitary housing in  
 26 the city; that such undeveloped vacant land will be developed for predominantly residential  
 27 uses; and that the provision of decent, safe, and sanitary housing on such undeveloped  
 28 vacant land is necessary to the relocation of families to be displaced from blighted areas  
 29 in the city which are under redevelopment.

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

**SECTION 9.**

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

"22-1-1.

As used in this title, the term:

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

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

(3) 'Condemnor' or 'condemning authority' means:

(A) The State of Georgia or any branch or any department, board, commission, agency, or authority of the executive branch of the government of the State of Georgia;

(B) Any county or municipality of the State of Georgia;

(C) Any housing authority with approval of the governing authority of the city or county as provided in Code Section 8-4-4;

(D) Any other political subdivision of the State of Georgia which possesses the power of eminent domain; and

(E) All public utilities that possess the right or power of eminent domain.

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

(A) Transfer of land to public ownership;

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

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

(D) The remedy of blight.

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

~~(1)~~(6) 'Interest' means any title or nontitle interest other than fee simple title.

~~(2)~~(7) 'Persons' means individuals, partnerships, associations, and corporations, domestic or foreign.

~~(3)~~(8) 'Property' means fee simple title.

(9)(A) 'Public use' means:

(i) The possession, occupation, and enjoyment of the land by the general public or by state or local governmental entities;

(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 where title is clouded due to the inability to identify  
 4 or locate all owners of the property or in such situations and where unanimous  
 5 consent is received from each person with a legal claim that has been identified and  
 6 found; or

7 (v) The remedy of blight.

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

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

## 17 **SECTION 10.**

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

20 "22-1-2.

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

30 (b)(1) If property acquired through the power of eminent domain from an owner fails to  
 31 be put to a stated public use within five years, the former property owner may apply to  
 32 the condemnor or its successor or assign for reconveyance or quitclaim of the property  
 33 to the former property owner or for additional compensation for such property. The  
 34 application shall be in writing, and the condemnor or its successor or assign shall act on  
 35 the application within 60 days by:

1 (A) Executing a reconveyance or quitclaim of the property upon receipt of  
 2 compensation not to exceed the amount of the compensation paid by the condemnor at  
 3 the time of acquisition; or

4 (B) Paying additional compensation to the former owner of the property, such  
 5 compensation to be calculated by subtracting the price paid by the condemnor for the  
 6 property at the time of acquisition from the fair market value of the property at the time  
 7 the application is filed.

8 (2) If the condemnor fails to take either action within 60 days, the former property owner  
 9 may initiate an action in the superior court in the county in which the property is located  
 10 to reacquire the property or receive additional compensation.

11 (3) The condemnor shall provide notice to each former owner of the property prior to  
 12 acquisition if the condemnor fails to put such property to a stated public use within five  
 13 years.

14 (c) In the case that property is acquired from more than one owner for the same public use  
 15 and reconveyance or additional compensation to a single owner is impracticable, any party  
 16 to the original condemnation or each person with a legal claim in such condemnation may  
 17 file an action in the superior court in the county in which the property is located for an  
 18 equitable resolution.

19 (d) This Code section shall not apply to condemnations subject to Code Section 22-3-162  
 20 or to condemnations conducted by the Department of Transportation."

## 21 SECTION 11.

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

23 "22-1-9.

24 In order to encourage and expedite the acquisition of real property by agreements with  
 25 owners, to avoid litigation and relieve congestion in the courts, to assure consistent  
 26 treatment for property owners, and to promote public confidence in land acquisition  
 27 practices, all condemnations and potential condemnations shall, to the greatest extent and  
 28 practicable, be guided by the following policies and practices:

29 (1) The condemning authority shall make every reasonable effort to acquire  
 30 expeditiously real property by negotiation;

31 (2) Where the condemning authority seeks to obtain a fee simple interest in real property,  
 32 real property shall be appraised before the initiation of negotiations, and the owner or his  
 33 or her designated representatives shall be given an opportunity to accompany the  
 34 appraiser during his or her inspection of the property, except that the condemning  
 35 authority may, by law, rule, regulation, or ordinance, prescribe a procedure to waive the

1 appraisal in cases involving the acquisition by sale or donation of property with a low fair  
2 market value;

3 (3) Before the initiation of negotiations for fee simple interest for real property the  
4 condemning authority shall establish an amount which it believes to be just compensation  
5 and shall make a prompt offer to acquire the property for the full amount so established.  
6 In no event shall such amount be less than the condemning authority's independent  
7 appraisal of the fair market value of such property. The condemning authority shall  
8 provide the owner of real property to be acquired with a written statement of, and  
9 summary of the basis for, the amount he or she established as just compensation. Where  
10 appropriate, the just compensation for the real property acquired and for damages to  
11 remaining real property shall be separately stated. The condemning authority shall  
12 consider alternative sites suggested by the owner of the property as of the compensation  
13 offered;

14 (4) No owner shall be required to surrender possession of real property before the  
15 condemning authority pays the agreed purchase price or deposits with the court in  
16 accordance with this title, for the benefit of the owner, an amount not less than the  
17 condemning authority's appraisal of the fair market value of such property or the amount  
18 of the award of compensation in the condemnation proceeding for such property;

19 (5) The construction or development of a project for public use shall be so scheduled  
20 that, to the greatest extent practicable, no person lawfully occupying real property shall  
21 be required to move from a dwelling or to move his or her business or farm operation  
22 without at least 90 days' written notice from the condemning authority of the date by  
23 which such move is required;

24 (6) If the condemning authority permits an owner or tenant to occupy the real property  
25 acquired on a rental basis for a short term or for a period subject to termination by the  
26 condemning authority on short notice, the amount of rent required shall not exceed the  
27 fair rental value of the property to a short-term occupier;

28 (7) In no event shall the condemning authority either advance the time of condemnation  
29 or defer negotiations or condemnation and the deposit of funds in court for the use of the  
30 owner or take any other bad faith action in order to compel an agreement on the price to  
31 be paid for the property;

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

36 (9) A person whose real property is being acquired in accordance with this title may,  
37 after the person has been fully informed of his or her right to receive just compensation

1 for such property, donate such property, any part thereof, any legal interest therein, or any  
2 compensation paid to a condemning authority, as such person shall determine.

3 22-1-10.

4 Prior to exercising the power of eminent domain, a condemning authority shall:

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

9 (2) Serve the condemnee personally by a sheriff or deputy with notice of the meeting not  
10 less than 15 days before any meeting at which such resolution is to be considered, unless  
11 service is acknowledged or waived by the condemnee. If after all efforts made to serve  
12 notice to the condemnee under this paragraph are unsuccessful, service of notice may be  
13 satisfied by mail or statutory overnight delivery to the property owner at the address of  
14 record and, if different from the property owner, to the parties in possession of the  
15 property, return receipt requested;

16 (3) 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 (4) Ensure that any meeting at which such resolution is to be considered and voted on  
20 shall commence after 6:00 P.M.

21 Any such resolution shall specifically and conspicuously delineate each parcel to be  
22 affected.

23 22-1-11.

24 In any condemnation, the condemnee may object at any time to the condemnation by filing  
25 a petition for injunctive relief in the superior court in the county in which the property is  
26 located. The court presiding over the petition shall determine whether the exercise of the  
27 power of eminent domain is for a public use and whether the condemning authority has the  
28 legal authority to exercise the power of eminent domain. The condemning authority shall  
29 bear the burden of proof by the evidence presented that the condemnation is for a public  
30 use as defined in Code Section 22-1-1. In its discretion, the court may award reasonable  
31 attorney fees to a condemnee whose petition for injunctive relief pursuant to this Code  
32 section is granted.

33 22-1-12.

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

- 7 (1) The final judgment is that the condemning authority cannot acquire the real property  
 8 by condemnation; or
- 9 (2) The proceeding is abandoned by the condemning authority.

10 22-1-13.

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

- 13 (1) Actual reasonable expenses in moving himself or herself, his or her family, business,  
 14 farm operation, or other personal property;
- 15 (2) Actual direct losses of tangible personal property as a result of moving or  
 16 discontinuing a business or farm operation;
- 17 (3) Compensation for actual direct pecuniary loss of goodwill as a result of relocating a  
 18 business or farm operation; and
- 19 (4) Such other relocation expenses as authorized by law.
- 20 (5) With the consent of the landowner, the condemnor may provide alternative site  
 21 property as full or partial compensation.

22 22-1-14.

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

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

28 22-1-15.

29 (a) When an entity authorized to use the power of eminent domain determines that it  
 30 intends to exercise such power to take private property, prior to taking any action regarding  
 31 the property it shall provide the owner of the property with a written copy of the rights that  
 32 the condemnee possesses including but not limited to the right to notice, damages, hearing,  
 33 and appeal of any award entered by the special master as described in this title. Such

1 notice shall be provided in person; by mailing such notice by certified mail, return receipt  
2 requested; or by statutory overnight delivery.

3 (b) The Department of Community Affairs shall promulgate written notice of rights forms  
4 that shall be used by all entities having the power of eminent domain in this state to advise  
5 the owner of property sought to be condemned of the entire eminent domain process and  
6 the rights of the property owner with regard to such process. The Department of  
7 Community Affairs shall promulgate different notice forms for each of the types of  
8 condemnation proceedings authorized by law."

### 9 SECTION 12.

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

### 13 SECTION 13.

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

17 "22-2-100.

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

- 19 (1) The State of Georgia or any branch or any department, board, commission, agency,  
20 or authority of the executive branch of the government of the State of Georgia;
- 21 (2) Any county or municipality of the State of Georgia;
- 22 (3) Any housing authority with approval of the governing authority of the city or county  
23 as provided in Code Section 8-4-4;
- 24 (4) Any other political subdivision of the State of Georgia which ~~is vested with~~ possesses  
25 the power of eminent domain; and
- 26 (5) All public utilities that possess the right or power of eminent domain. ~~All other~~  
27 ~~persons possessing the right or power of eminent domain."~~

### 28 SECTION 14.

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

32 "22-2-102.

33 (a) In addition to the requirements set forth in Chapter 1 of this title, whenever ~~Whenever~~  
34 it is desirable, for any reason, to arrive at a quick and certain determination of the

1 compensation to be paid first to the condemnee for the taking or damaging of private  
 2 property, the condemnor shall:

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

5 (2) At or before the filing of the petition, ~~the condemnor shall~~ present a copy of the  
 6 petition to a judge of the superior court of the county wherein the property or interest  
 7 sought to be condemned is located. Thereupon, the judge shall have a hearing in court,  
 8 in chambers, or by telephone with the parties not less than ten days nor more than 30 days  
 9 from the filing of the petition to appoint a special master. After such hearing, the judge

10 shall make an order requiring the condemnor, the person in possession of the property or  
 11 interest, and ~~any other person known to have any rights in the property~~ each person with  
 12 a legal claim or interest to appear at a hearing before a special master at a time and place  
 13 specified in the order and to make known their rights, if any, in and to the property or  
 14 interest sought to be condemned, their claims as to the value of the property or interest,  
 15 and any other matters material to their respective rights. ~~Except in condemnations for~~  
 16 ~~purposes of constructing or expanding one or more electric transmission lines, the~~

17 In the event the property to be condemned lies in multiple jurisdictions, the condemnee  
 18 shall have the option pursuant to Code Section 9-10-31.1 to transfer the action to any other  
 19 venue with in rem jurisdiction.

20 (b) The hearing before the special master shall take place not less than ~~ten~~ 30 days nor  
 21 more than ~~15~~ 60 days after the date of ~~service~~ the entry of the order appointing the special  
 22 master. ~~In condemnations for purposes of constructing or expanding one or more electric~~  
 23 ~~transmission lines, the hearing before the special master shall take place not less than 30~~  
 24 ~~days and not more than 40 days after the date of service of the order.~~

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

35 **SECTION 15.**

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

4 "22-2-102.1.

5 In addition to the requirements set forth in Chapter 1 of this title, whenever ~~Whenever~~ it  
 6 shall be necessary for such condemning body to take or damage private property, or any  
 7 interest or easement therein, in pursuance of any law so authorizing, for any public ~~purpose~~  
 8 use, and where, by reason of the necessities of the public needs, of which the condemning  
 9 body shall be the exclusive judge, and it shall be desirable for these reasons to have a quick  
 10 and effective adjudication of the just and adequate compensation to be paid the owner or  
 11 owners of such property before taking the same, and it shall be desirable to have a judicial  
 12 ascertainment and judicial supervision of all questions and proceedings connected with the  
 13 matter, such condemning body may, through any authorized representative, petition the  
 14 superior court of the county having jurisdiction, for a judgment in rem against said  
 15 property, or any easement or other interest in said property, condemning the same in fee  
 16 simple to the use of the petitioner upon payment of just and adequate compensation  
 17 therefor."

#### 18 SECTION 16.

19 Said title is further amended by striking Code Section 22-2-102.2, relating to contents of  
 20 petition to superior court for judgment in rem in cases of eminent domain, and inserting in  
 21 its place a new Code section to read as follows:

22 "22-2-102.2.

23 The petition referred to in Code Section 22-2-102.1 shall set forth:

- 24 (1) The facts showing the right to condemn;
- 25 (2) The property or interest to be taken or damaged;
- 26 (3) The names and residences of the persons whose property or interests are to be taken  
 27 or otherwise affected, so far as known;
- 28 (4) A description of any unknown persons or classes of unknown persons whose rights  
 29 in the property or interest are to be affected; ~~and~~
- 30 (5) A statement setting forth the necessity to condemn the private property and  
 31 describing the public use for which the condemnor seeks the property; and
- 32 ~~(5)(6)~~ (6) Such other facts as are necessary for a full understanding of the cause."

#### 33 SECTION 17.

34 Said title is further amended by striking Code Section 22-2-106, relating to compensation for  
 35 special masters, and inserting in its place a new Code section to read as follows:

1 "22-2-106.

2 (a) The compensation of the special master shall be provided for by a proper order of the  
 3 judge of the superior court; shall be included in and made a part of the judgment of the  
 4 court condemning the property or any interest therein sought to be taken, such judgment  
 5 to be based on the award of the special master; and shall be paid by the condemning body;  
 6 ~~and shall not be less than 50.00 per day nor more than \$250.00 per day for the time actually~~  
 7 ~~devoted to the hearing and consideration of the matter by the special master.~~ Such  
 8 compensation shall be left to the discretion of the court and shall not exceed a reasonable  
 9 hourly rate consistent with local standards unless otherwise agreed upon by the parties with  
 10 consent of the court. The compensation of the special master shall be assessed as court  
 11 costs and shall be paid prior to the filing of any appeal from the judgment of the court;  
 12 provided, however, that if such compensation has not been determined and assessed at the  
 13 time of filing any such appeal, the same shall be paid within 30 days from the date of  
 14 assessment.

15 (b) The judge may allow the special master a reasonable period of time for personal  
 16 inspection of the premises and may compensate the special master for his or her time spent  
 17 inspecting the premises and for any actual expenses incurred by ~~him~~ the special master in  
 18 connection with the inspection, provided that the special master shall file an affidavit with  
 19 the court showing his or her time spent in inspection and itemizing ~~his~~ his or her expenses."

## 20 SECTION 18.

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

24 "22-2-110.

25 (a) The award of the special master or the special master panel, in the event such a panel  
 26 exists, shall be served upon all the parties and filed with the clerk of the superior court of  
 27 the county where the property or interest is situated within three days after the date on  
 28 which such hearing is completed.

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

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

34 AWARD

1 The special master appointed and chosen by the court to hear evidence and give full  
 2 consideration to all matters touching upon the value of the property or interest sought to  
 3 be condemned, as shown by the description of the property or interest in the case of  
 4 \_\_\_\_\_ (condemning body) versus \_\_\_\_\_  
 5 (acres of land or other described interest in said land) and \_\_\_\_\_  
 6 (condemnee), Civil action file no. \_\_\_\_\_ in superior court, having first taken the oath as  
 7 required by law of the special master, the same having been filed with the clerk of the  
 8 Superior Court of \_\_\_\_\_ County, and the special master panel, in the event such  
 9 a panel exists, having heard evidence under oath and given consideration to the value of  
 10 such property or interest on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_:\_\_\_\_ .M., as  
 11 provided for in the order of the court, do decide and recommend to the court as follows:

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

14 (2) I/We find consequential damages to the remaining property or interest in the  
 15 amount of \$\_\_\_\_\_;

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

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

20 ~~(4)~~(5) Balancing the consequential benefits against the consequential damages, I/we  
 21 find and award to the condemnee in this case in the total sum of \$\_\_\_\_\_, and I/we  
 22 respectfully recommend to the court that the said property or interest be condemned by  
 23 a judgment in rem to the use of the condemnor upon the payment of the last stated sum  
 24 into the registry of the court, subject to the demands of the condemnee.

25 This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

26 \_\_\_\_\_  
 27 Special Master

28 \_\_\_\_\_  
 29 Assessor

30 \_\_\_\_\_  
 31 Assessor

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





1 authority of such political subdivision, ~~which consent may~~ after the requirements of  
 2 Chapter 1 of this title have been satisfied. Consent shall be granted by resolution or  
 3 ordinance."

#### 4 SECTION 23.

5 Said title is further amended by striking Code Section 22-4-3, relating to the applicability of  
 6 Code Section 22-1-1, and inserting in its place a new Code section to read as follows:

7 "22-4-3.

8 The definitions contained in paragraphs ~~(1) and (3)~~ (6) and (8) of Code Section 22-1-1 shall  
 9 not apply to this chapter."

#### 10 SECTION 24.

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

13 "23-3-73.

14 All municipalities, counties, and housing authorities shall have standing pursuant to this  
 15 article."

#### 16 SECTION 25.

17 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
 18 by striking subsection (b) of Code Section 36-42-8, relating to the powers of downtown  
 19 development authorities generally, and inserting a new subsection (b) to read as follows:

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

#### 26 SECTION 26.

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

#### 29 SECTION 27.

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

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

#### 4 SECTION 28.

5 Said title is further amended by adding a new subsection to the end of Code Section 36-44-7,  
6 relating to redevelopment plan proposals by a redevelopment agency, to read as follows:

7 "(e) If any subsection of this Code section is in conflict with Title 22, the provisions of  
8 Title 22 shall control."

#### 9 SECTION 29.

10 Said title is further amended by adding a new paragraph (2.1) and by striking paragraph (19)  
11 of Code Section 36-61-2, relating to definitions regarding urban development, and inserting  
12 in its place a new paragraph to read as follows:

13 "(2.1) 'Blighted property,' 'blighted,' or 'blight' means any urbanized or developed  
14 property which:

15 (A) Presents two or more of the following conditions:

16 (i) Uninhabitable, unsafe, or abandoned structures;

17 (ii) Inadequate provisions for ventilation, light, air, or sanitation;

18 (iii) An imminent harm to life or other property caused by fire, flood, hurricane,  
19 tornado, earthquake, storm, or other natural catastrophe respecting which the  
20 Governor has declared a state of emergency under state law or has certified the need  
21 for disaster assistance under federal law; provided, however, that no property owner  
22 who has taken positive steps within one year of the natural catastrophe to protect his  
23 or her property in such circumstances shall be subject to condemnation;

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

27 (v) Repeated illegal use of individual properties; or

28 (vi) The maintenance of the property is below state, county, or municipal codes for  
29 at least one year after notice of the code violation; and

30 (B) Is conducive to ill health, transmission of disease, infant mortality, or crime in the  
31 immediate proximity of the property.

32 Such conditions shall be shown by studies, including but not limited to, government  
33 maintained statistics. Property shall not be deemed blighted solely because of esthetic  
34 conditions."

35 "(19) 'Slum clearance and redevelopment' may include:

- 1 (A) Acquisition by purchase or gift of a slum area or 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 SECTION 30.

11 Said title is further amended by striking subsection (c) of Code Section 36-61-7, relating to

12 the preparation of a redevelopment plan, and inserting new subsection (c) to read as follows:

13 "(c) The local governing body of the municipality or county shall hold ~~or shall cause some~~

14 ~~agency of the municipality or county to hold~~ a public hearing on an urban redevelopment

15 plan or a substantial modification of an approved urban redevelopment plan, after public

16 notice thereof by publication in a newspaper having a general circulation in the area of

17 operation of the municipality or county. The notice shall describe the time, date, place, and

18 purpose of the hearing, shall generally identify the urban redevelopment area covered by

19 the plan, and shall outline the general scope of the urban redevelopment project under

20 consideration."

### 21 SECTION 31.

22 Said title is further amended by striking Code Section 36-61-9, relating to the use of the

23 power of eminent domain in urban redevelopment, and inserting in its place a new Code

24 section to read as follows:

25 "36-61-9.

26 (a) Except as otherwise provided in subsection (c) of this Code section, a municipality or

27 county shall have the right to acquire, by exercise of the power of eminent domain, any real

28 property which it the governing authority may deem necessary for its purposes ~~under this~~

29 ~~chapter~~ the remedy of blight, after the adoption by it of a resolution declaring that the

30 acquisition of the real property described therein is necessary for such purposes. A

31 municipality or county may exercise the power of eminent domain in the manner provided

32 in Title 22; ~~or it may exercise the power of eminent domain in the manner provided by any~~

33 ~~other applicable statutory provisions for the exercise of the power of eminent domain and~~

34 in the manner set forth in this chapter. Property already devoted to a public use may be

1 acquired, provided that no real property belonging to the municipality, the county, the state,  
2 or any political subdivision thereof may be acquired without its consent.

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

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

27 (1) The municipality or county which adopted the urban redevelopment plan has  
28 approved a resolution authorizing the exercise of the power of eminent domain by the  
29 agency to acquire the property. Prior to approving such a resolution, the governing body  
30 of the municipality or county shall:

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

35 (B) Serve the condemnee personally by a sheriff or deputy with notice of the meeting  
36 not less than 15 days before any meeting at which such resolution is to be considered,  
37 unless service is acknowledged or waived by the condemnee. If after all efforts made

1 to serve notice to the condemnee under this subparagraph are unsuccessful, service of  
 2 notice may be satisfied by mail or statutory overnight delivery to the property owner  
 3 at the address of record and, if different from the property owner, to the parties in  
 4 possession of the property, return receipt requested;

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

10 Any such resolution shall specifically and conspicuously delineate each parcel to be  
 11 affected;

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

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

25 (4) The owner of the property may execute an agreement with the municipality or county  
 26 to rehabilitate the property in accordance with the urban redevelopment plan. Any such  
 27 agreement shall be as the municipality or county deems necessary and appropriate as to  
 28 form and content; in connection therewith, the municipality or county shall have the right  
 29 to require sufficient performance, payment, and completion bonds. In the event that any  
 30 such owner, at any time, fails to comply with or defaults in the performance of the  
 31 provisions of the agreement, such property shall no longer be subject to the agreement,  
 32 the option provided by paragraph (3) of this subsection shall no longer apply, and the  
 33 property may be acquired by the municipality or county by purchase or through the  
 34 exercise of the power of eminent domain. In the alternative, the municipality or county  
 35 may either specifically enforce the agreement, exercise any rights under any bonds which  
 36 may have been required, and obtain any other legal or equitable relief as may be available  
 37 to the municipality or county or, if the owner fails to exercise the option to rehabilitate

1 the property or defaults on the agreement to rehabilitate the property, the municipality or  
 2 county may implement those portions of the urban development plan with respect to such  
 3 property to the extent the municipality or county deems necessary and the costs of  
 4 implementing such plan shall be a lien against the property enforceable in the same  
 5 manner as tax liens.

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

### 9 SECTION 32.

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

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

### 15 SECTION 33.

16 Said title is further amended by striking paragraph (1) of subsection (a) of Code Section  
 17 36-82-62, relating to power as to undertakings and issuance of revenue bonds by government  
 18 bodies, and inserting in its place a new paragraph (1) to read as follows:

19 "(1) To acquire, by gift, purchase, or the exercise of the right of eminent domain, and to  
 20 construct, to reconstruct, to improve, to better, and to extend any undertaking wholly  
 21 within or wholly outside the governmental body or partially within and partially outside  
 22 the governmental body; and to acquire, by gift, purchase, or the exercise of the right of  
 23 eminent domain, lands, easements, rights in lands, and water rights in connection  
 24 therewith. For property located within a city, the exercise of eminent domain shall be  
 25 approved by resolution by the governing authority of the city. For property located in an  
 26 unincorporated area of a county, the exercise of eminent domain shall be approved by  
 27 resolution by the governing authority of the county. Any such resolution shall  
 28 specifically and conspicuously delineate each parcel to be affected. A government  
 29 authority acting under this Code section shall notify the property owner pursuant to Code  
 30 Section 36-82-86 and comply with such other requirements of that Code section;".

### 31 SECTION 34.

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

33 "36-82-86.

1 Any governing authority acting under Code Section 36-82-62 shall, prior to approving a  
2 resolution for the exercise of eminent domain:

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

7 (2) Shall serve the condemnee personally by a sheriff or deputy with notice of the  
8 meeting not less than 15 days before any meeting at which such resolution is to be  
9 considered, unless service is acknowledged or waived by the condemnee. If after all  
10 efforts made to serve notice to the condemnee under this paragraph are unsuccessful,  
11 service of notice may be satisfied by mail or statutory overnight delivery to the property  
12 owner at the address of record and, if different from the property owner, to the parties in  
13 possession of the property, return receipt requested;

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 Any such resolution shall specifically and conspicuously delineate each parcel to be  
20 affected."

### 21 **SECTION 35.**

22 This Act shall become effective upon its approval by the Governor or upon its becoming law  
23 without such approval. Sections 6, 9, 12, 18, 19, and 29 and Code Sections 22-1-11, 22-1-12,  
24 22-1-13, and 22-1-14 as enacted by Section 11 of this Act shall apply to causes of action  
25 pending on the effective date of this Act.

### 26 **SECTION 36.**

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