

Senate Bill 227

By: Senators Jones II of the 22nd, Jackson of the 2nd and Anderson of the 43rd

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 1 of Title 22 of the Official Code of Georgia Annotated, relating to
2 general provisions regarding eminent domain, so as to provide for an alternative process for
3 a county, municipality, or consolidated government to condemn certain blighted properties;
4 to provide for definitions; to provide for procedures; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 1 of Title 22 of the Official Code of Georgia Annotated, relating to general
9 provisions regarding eminent domain, is amended by adding a new Code section to read as
10 follows:

11 "22-1-16.

12 (a) As used in this Code section, the term:

13 (1) 'Blighted property,' 'blighted,' or 'blight' means any urbanized, developed, or
14 commercial property which has a building located thereon that:

15 (A) Is at least 375,000 square feet in size;

16 (B) Was built prior to 2000; and

(C) Has not been legally occupied, has not had a tenant, or has been empty for ten consecutive years or has been less than 30 percent occupied for a least 20 consecutive years.

(2) 'Condemnor' means a county, municipality, or consolidated government of this state.

(3) 'Economic development' means any economic activity to increase tax revenue, tax base, or employment or to 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; or

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

(4) 'Public use' means the remedy of blight when economic development is a secondary or ancillary public benefit of condemnation.

(b) A condemnor seeking to condemn property for public use under this Code section shall first petition the superior court of the county having jurisdiction for a judgment in rem against such property seeking a determination as to whether such property in the petition is blighted property.

(c) The petition described in subsection (b) of this Code section shall set forth:

(1) The facts showing the right to condemn;

(2) The property or interest to be taken;

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

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

(5) A description of the appearance of the property and any structures thereon;

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

43 (7) A statement setting forth the reasons why such property meets the elements of
44 blighted property;

45 (8) A prayer for an order to be issued by the court as may be proper and desired; and

46 (9) Whether any of the persons referred to in this subsection are minors or disabled.

47 (d)(1) Upon presentation of the petition set forth in subsection (c) of this Code section,
48 the court shall issue an order requiring all parties of interest to appear at a time and place
49 named in the order and make known their objections, if any, as to the question of whether
50 the property shall be deemed blighted.

51 (2) The date of the hearing shall be no less than 30 days from the date such petition is
52 filed.

53 (3) The order described in paragraph (1) of this subsection shall give directions for
54 providing notice of the hearing and the service of such notices.

55 (4) It shall not be necessary to attach any other process to the petition except the order
56 referred to in paragraph (1) of this subsection, and the cause shall proceed as in rem.

57 (e) All persons entitled to notice under the facts stated in the petition shall be personally
58 served with a copy of the petition and order issued pursuant to subsection (d) of this Code
59 section as in other causes at law, unless such service is waived in writing. All other service
60 shall be made by the method as provided in Part 2 of Article 1 of Chapter 2 of this title, and
61 all persons so served shall be deemed parties to the cause.

62 (f) In any cases where it seems to the court to be in the interest of justice and of more
63 effective notice to cause additional notice or service to be given, it shall be within the
64 court's discretion to so order. In such cases, such additional notice and service shall be
65 made as ordered before the cause proceeds to final hearing. In cases where any taxes are
66 alleged to be due or unpaid, the order shall direct that a separate notice to that effect be
67 given to the proper tax collector or tax commissioner.

68 (g)(1) On the day named in the order made pursuant to subsection (d) of this Code
69 section, or at any other time to which the hearing may be continued, the court, having

first passed on and adjudged all questions touching service and notice, shall, after hearing from all persons responding and desiring to be heard, make such order as is appropriate based on the evidence as to whether or not the property shall be deemed blighted.

(2)(A) If the property satisfies the conditions to be deemed blighted under this Code section, but the court finds that an ownership interest of more than 50 percent of the property has been conveyed during the 24 months preceding the date of such hearing, the court shall make such an order as is appropriate based on the evidence but shall not deem the property blighted under this Code section; provided, however, that such order shall also include the following:

(i) A legal description of the property; and

(ii) A finding that but for the conveyance of an ownership interest in more than 50 percent of the property during the preceding 24 months, such property would have been deemed blighted.

(B) The exception provided for in subparagraph (A) of this paragraph shall not be applied more than once to a single property.

(h) Any property deemed blighted under this Code section shall be described in the order adjudging such determination and contain a statement of the then current approved land use of the property, or in the case of vacant property, the last lawful use for which the property was occupied, and such property's future use shall be restricted to the same land use as stated in the order for a period of one year from the date of the order.

(i) A condemnor which has obtained an order under subsection (h) of this Code section declaring a property to be blighted shall within 60 days from such order, or in the event of an appeal, 60 days from the date when the remittitur of the appellate court is made the judgment of the court, file an action to condemn the property pursuant to the procedures set forth in Article 3 of Chapter 2 of this title. When a condemnor proceeds as set forth in Article 3 of Chapter 2 of this title, it shall attach a copy of the order issued under subsection (h) of this Code section.

97 (j) Nothing in this Code section shall be construed as preventing a condemnor from
98 proceeding under Code Section 22-1-15 or any other Code section to provide that a
99 property in question is blighted property."

100

SECTION 2.

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