

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 1617

5 By: Representative Woods
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For An Act To Be Entitled

9 AN ACT TO LIMIT THE USE OF EMINENT DOMAIN BY
10 DEFINING "PUBLIC USE"; TO ABOLISH A LOCAL
11 GOVERNMENT'S RIGHT OF EMINENT DOMAIN TO CONDEMN
12 PRIVATE PROPERTY FOR COMMUNITY REDEVELOPMENT; AND
13 FOR OTHER PURPOSES.
14

Subtitle

15 TO LIMIT THE USE OF EMINENT DOMAIN BY
16 DEFINING "PUBLIC USE" AND TO ABOLISH A
17 LOCAL GOVERNMENT'S RIGHT OF EMINENT
18 DOMAIN TO CONDEMN PRIVATE PROPERTY FOR
19 COMMUNITY REDEVELOPMENT.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code § 14-168-304 is amended to read as follows:

26 In addition to any other powers conferred by law, a local government
27 may exercise any powers necessary and convenient to carry out the purpose of
28 this subchapter, including the power to:

29 (1) Create redevelopment districts and to define the boundaries
30 of redevelopment districts;

31 (2) Cause project plans to be prepared, to approve the project
32 plans, and to implement the provisions and effectuate the purposes of the
33 project plans;

34 (3) Issue redevelopment bonds, notes, or other evidences of
35 indebtedness, in one or more series, and to pledge tax increments and other
36 redevelopment revenues for repayment of them;



1 (4) Deposit moneys into the special fund for any redevelopment
2 project district;

3 (5) Enter into any contracts or agreements, including agreements
4 with bondholders, determined by the local governing body to be necessary or
5 convenient to implement the provisions and effectuate the purposes of project
6 plans;

7 (6) Receive from the federal government or the state loans and
8 grants for or in aid of a redevelopment project and to receive contributions
9 from any other source to defray project costs;

10 ~~(7)(A) Exercise the right of eminent domain to condemn property
11 for the purposes of implementing the project plan.~~

12 ~~(B) The rules and procedures set forth in §§ 18-15-301—
13 18-15-307 shall govern all condemnation proceedings authorized in this
14 subchapter;~~

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16 SECTION 2. Arkansas Code Title 18, Chapter 15, Subchapter 1 is amended
17 to add an additional section to read as follows:

18 18-15-103. Eminent Domain limited to public use.

19 (a)(1) As used in this section, "public use" means:

20 (A) The possession, occupation, and enjoyment of real
21 property by the general public or by a public agency; or

22 (B) The use of real property for the creation or
23 functioning of a public utility or common carrier.

24 (2) "Public use" includes the use of eminent domain to eliminate
25 a direct threat to public health or safety caused by real property in its
26 condition at the time the eminent domain action is filed, including without
27 limitation, the ability by the state, a political subdivision of the state,
28 or any other condemning entity to:

29 (A) Remove a public nuisance;

30 (B) Remove a structure that is beyond repair or unfit for
31 human habitation or use; or

32 (C) Acquire abandoned real property.

33 (3) "Public use" does not include:

34 (A) The use of eminent domain for the sole purpose of
35 economic development, including without limitation, an increase in tax base,
36 tax revenue, employment, or general economic health; or

1 (B) The creation of a redevelopment district under § 14-
2 168-301 et seq.

3 (b)(1) The state, a political subdivision of the state, or any other
4 condemning entity shall not use eminent domain unless it is reasonably
5 necessary for a public use.

6 (2) If real property is condemned by eminent domain and the
7 condemning entity intends that the real property will be transferred through
8 ownership or leasehold to a private entity, then the state, a political
9 subdivision of the state, or any other condemning entity shall establish by
10 clear and convincing evidence that the use of eminent domain is reasonably
11 necessary for a public use.

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