

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 87th General Assembly  
3 Regular Session, 2009  
4

As Engrossed: H3/20/09

# A Bill

HOUSE BILL 2251

5 By: Representatives Lowery, *G. Smith, Reep*  
6 By: *Senator G. Jeffress*  
7

## For An Act To Be Entitled

10 AN ACT TO GRANT THE POWER OF EMINENT DOMAIN TO  
11 MUNICIPAL GOVERNMENTS FOR THE CONDEMNATION OF  
12 INDUSTRIAL MANUFACTURING PLANTS EMPLOYING FIFTY  
13 OR MORE RESIDENTS OF THE CITY FOR THE PURPOSE OF  
14 PROTECTING JOBS AND PROMOTING INDUSTRIAL AND  
15 ECONOMIC DEVELOPMENT; AND FOR OTHER PURPOSES.  
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### Subtitle

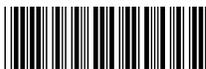
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18 TO GRANT THE POWER OF EMINENT DOMAIN TO  
19 MUNICIPAL GOVERNMENTS FOR THE  
20 CONDEMNATION OF INDUSTRIAL MANUFACTURING  
21 PLANTS FOR THE PURPOSE OF PROTECTING  
22 JOBS AND PROMOTING INDUSTRIAL AND  
23 ECONOMIC DEVELOPMENT.  
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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28 *SECTION 1. Arkansas Code Title 18, Chapter 15, Subchapter 2 is amended*  
29 *to add an additional section to read as follows:*

30 *18-15-203. Power of eminent domain – Industrial plant or commercial*  
31 *enterprise.*

32 *(a) A county, a city of the first class, or a city of the second class*  
33 *may exercise the power of eminent domain to condemn the private property of*  
34 *an industrial plant or other commercial enterprise for the purpose of*  
35 *protecting the public interest in an industrial plant or other commercial*  
36 *enterprise that is located within the city or county if:*



1           (1) The industrial plant or other commercial enterprise has  
2 employed at least fifty (50) full-time employees continuously for a period of  
3 five (5) years before the commencement of a condemnation proceeding under  
4 this section;

5           (2) The industrial plant or other commercial enterprise is in  
6 imminent danger of closing or substantially ceasing its business operations  
7 under circumstances that are likely to result in the termination of at least  
8 fifty (50) full-time employees; and

9           (3) The owner of the industrial plant or other commercial  
10 enterprise is insolvent under § 4-59-202.

11           (b)(1)(A) A petition for condemnation under subsection (a) of this  
12 section shall be filed in the circuit court of the county where the  
13 industrial plant or other commercial enterprise is located.

14           (B) If the industrial plant or other commercial  
15 enterprise is located in more than one county, the petition for condemnation  
16 shall be filed in the circuit court of the county where the largest portion  
17 of the real property sought to be condemned is located.

18           (2)(A) After the petition for condemnation has been filed in the  
19 proper circuit court, the condemnation proceeding shall conform to the  
20 procedure under §§18-15-303 – 18-15-307.

21           (B) However, before granting a final order to condemn  
22 under this section, the circuit court shall find that the elements under  
23 subsection (a) of this section have been proved by a preponderance of the  
24 evidence.

25           (c) A city or county that obtains an industrial plant or other  
26 commercial enterprise under this section shall use its best efforts to sell  
27 or lease the real or personal property that has been condemned to a person or  
28 entity that agrees to operate the industrial plant or other commercial  
29 enterprise in a manner that will sustain as many employment positions as is  
30 feasible.

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32           SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
33 General Assembly of the State of Arkansas that long-established plants are  
34 closing at an alarming rate due to the limited availability of financing;  
35 that rather than being sold as a going concern, those plants are being idled  
36 or dismantled causing significant job losses and leaving local government

1 with abandoned industrial machinery and empty buildings that present a  
2 security risk and cause urban blight; and that this act is immediately  
3 necessary because many of those jobs can be saved and urban blight can be  
4 avoided by authorizing a county or city government to acquire those plants  
5 through the power of eminent domain for the purpose of sustaining those  
6 plants' continued operation. Therefore, an emergency is declared to exist and  
7 this act being immediately necessary for the preservation of the public  
8 peace, health, and safety shall become effective on:

9 (1) The date of its approval by the Governor;

10 (2) If the bill is neither approved nor vetoed by the Governor,  
11 the expiration of the period of time during which the Governor may veto the  
12 bill; or

13 (3) If the bill is vetoed by the Governor and the veto is  
14 overridden, the date the last house overrides the veto.

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16 /s/ Lowery  
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