

EMINENT DOMAIN CHANGES

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott K. Jenkins

House Sponsor: _____

LONG TITLE**General Description:**

This bill modifies a provision related to the acquisition of property by eminent domain in a redevelopment project area.

Highlighted Provisions:

This bill:

- ▶ makes an exception to the prohibition against acquiring property by eminent domain;
- ▶ provides that a redevelopment agency may acquire property by eminent domain if:
 - the agency has made a finding of blight;
 - 2/3 of property owners submit a petition requesting the agency to acquire property by eminent domain;
 - the agency board approves the petition;
 - at least 70% of the property is developed and not vacant;
 - at least 75% of the property is committed to a developer by option or purchase agreement; and
 - the agency board, by a 75% vote, adopts a resolution approving the use of eminent domain;
- ▶ requires an agency to comply with relocation assistance provisions with respect to the exercise of eminent domain; and
- ▶ provides that provisions related to owner and tenant participation in a



redemption project do not apply to a project area where property has been acquired by eminent domain as provided in this bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-4-1101, as last amended by Chapter 292, Laws of Utah 2005

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **17B-4-1101** is amended to read:

17B-4-1101. Use of eminent domain prohibited -- Exception -- Use of eminent domain following property owner petition.

(1) Except as provided in Section 17B-4-206 and in Subsection (2), an agency may not use eminent domain to acquire property.

(2) (a) Notwithstanding the prohibition under Subsection (1) against using eminent domain to acquire property, an agency may acquire property by eminent domain as provided in this Subsection (2).

(b) An agency may use eminent domain to acquire property in a project area if:

(i) the agency board has made a finding of blight under Section 17B-4-604 applicable to the property in the project area;

(ii) the owners of at least 2/3 of the acreage of the property in the project area sign and submit to the agency a written petition requesting the agency to acquire property within the project area by eminent domain;

(iii) copies of option or purchase agreements applicable to at least 75% of the acreage of the property within the project area are filed with the agency, indicating that the owner of each parcel affected by an option to purchase or purchase agreement has voluntarily and without threat of eminent domain given an option to purchase the owner's property or has entered into a contract to sell the owner's property to a person intending to develop the property within the project area;

59 (iv) at least 70% of the property in the project area is developed and not vacant land;

60 (v) the agency board, after at least 15 days notice by certified mail to all assessment
61 owners of property in the project area, approves by majority vote the property owner petition
62 under Subsection (2)(b)(ii); and

63 (vi) the agency board, after at least 15 days notice by certified mail to all assessment
64 owners of property in the project area, approves by a vote of at least 75% of all agency board
65 members a final resolution approving the use of eminent domain to acquire the remaining
66 portions of the project area.

67 (c) In acquiring property by eminent domain under this Subsection (2), each agency
68 shall comply with Title 57, Chapter 12, Utah Relocation Assistance Act.

69 (d) Section 17B-4-901, regarding property owner and tenant participation in a
70 redevelopment project, does not apply to the owners or tenants of property in a project area in
71 which property has been acquired by eminent domain under this Subsection (2).

Legislative Review Note

as of 2-3-06 11:19 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0210

Eminent Domain Changes

08-Feb-06
12:20 PM

State Impact
No fiscal impact.

Individual and Business Impact
No fiscal impact.

Office of the Legislative Fiscal Analyst