

By: Estes, et al.

S.B. No. 18

Substitute the following for S.B. No. 18:

By: Hamilton

C.S.S.B. No. 18

A BILL TO BE ENTITLED

AN ACT

relating to the acquisition of property by entities with eminent domain authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2206, Government Code, is amended to read as follows:

CHAPTER 2206. [~~LIMITATIONS ON USE OF~~] EMINENT DOMAIN

SUBCHAPTER A. LIMITATIONS ON PURPOSE AND USE OF PROPERTY ACQUIRED THROUGH EMINENT DOMAIN

Sec. 2206.001. LIMITATION ON EMINENT DOMAIN FOR PRIVATE PARTIES OR ECONOMIC DEVELOPMENT PURPOSES. (a) This section applies to the use of eminent domain under the laws of this state, including a local or special law, by any governmental or private entity, including:

(1) a state agency, including an institution of higher education as defined by Section 61.003, Education Code;

(2) a political subdivision of this state; or

(3) a corporation created by a governmental entity to act on behalf of the entity.

(b) A governmental or private entity may not take private property through the use of eminent domain if the taking:

(1) confers a private benefit on a particular private party through the use of the property;

(2) is for a public use that is merely a pretext to

1 confer a private benefit on a particular private party; ~~[or]~~

2 (3) is for economic development purposes, unless the  
3 economic development results ~~[is a secondary purpose resulting]~~  
4 from municipal community development or municipal urban renewal  
5 activities to eliminate an existing affirmative harm on society  
6 from ~~[slum or]~~ blighted areas under:

7 (A) Chapter 373 or 374, Local Government Code,  
8 other than an activity described by Section 373.002(b)(5), Local  
9 Government Code; or

10 (B) Section 311.005(a)(1)(I), Tax Code; or  
11 (4) is not for a public use.

12 (c) This section does not affect the authority of an entity  
13 authorized by law to take private property through the use of  
14 eminent domain for:

15 (1) transportation projects, including, but not  
16 limited to, railroads, airports, or public roads or highways;

17 (2) entities authorized under Section 59, Article XVI,  
18 Texas Constitution, including:

19 (A) port authorities;

20 (B) navigation districts; and

21 (C) any other conservation or reclamation  
22 districts that act as ports;

23 (3) water supply, wastewater, flood control, and  
24 drainage projects;

25 (4) public buildings, hospitals, and parks;

26 (5) the provision of utility services;

27 (6) a sports and community venue project approved by

1 voters at an election held on or before December 1, 2005, under  
2 Chapter 334 or 335, Local Government Code;

3 (7) the operations of:

4 (A) a common carrier pipeline [~~subject to Chapter~~  
5 ~~111, Natural Resources Code, and Section B(3)(b), Article 2.01,~~  
6 ~~Texas Business Corporation Act~~]; or

7 (B) an energy transporter, as that term is  
8 defined by Section 186.051, Utilities Code;

9 (8) a purpose authorized by Chapter 181, Utilities  
10 Code;

11 (9) underground storage operations subject to Chapter  
12 91, Natural Resources Code;

13 (10) a waste disposal project; or

14 (11) a library, museum, or related facility and any  
15 infrastructure related to the facility.

16 (d) This section does not affect the authority of a  
17 governmental entity to condemn a leasehold estate on property owned  
18 by the governmental entity.

19 (e) The determination by the governmental or private entity  
20 proposing to take the property that the taking does not involve an  
21 act or circumstance prohibited by Subsection (b) does not create a  
22 presumption with respect to whether the taking involves that act or  
23 circumstance.

24 Sec. 2206.002. LIMITATIONS ON EASEMENTS. (a) A property  
25 owner whose property is acquired through the use of eminent domain  
26 under Chapter 21, Property Code, for the purpose of creating an  
27 easement through that owner's property may construct streets or

1 roads, including a gravel, asphalt, or concrete road, at any  
2 locations above the easement that the property owner chooses.

3 (b) The portion of a road constructed under this section  
4 that is within the area covered by the easement:

5 (1) must cross the easement at or near 90 degrees; and

6 (2) may not:

7 (A) exceed 40 feet in width;

8 (B) cause a violation of any applicable pipeline  
9 regulation; or

10 (C) interfere with the operation and maintenance  
11 of any pipeline.

12 (c) At least 30 days before the date on which construction  
13 of an asphalt or concrete road or street that will be located wholly  
14 or partly in an area covered by an easement used for a pipeline is  
15 scheduled to begin, the property owner must submit plans for the  
16 proposed construction to the owner of the easement.

17 (d) This section applies only to an easement acquired by an  
18 entity for the purpose of a pipeline to be used for oil or gas  
19 exploration or production activities.

20 SUBCHAPTER B. PROCEDURES REQUIRED TO INITIATE

21 EMINENT DOMAIN PROCEEDINGS

22 Sec. 2206.051. SHORT TITLE. This subchapter may be cited as  
23 the Truth in Condemnation Procedures Act.

24 Sec. 2206.052. APPLICABILITY. The procedures in this  
25 subchapter apply only to the use of eminent domain under the laws of  
26 this state by a governmental entity.

27 Sec. 2206.053. VOTE ON USE OF EMINENT DOMAIN. (a) Before a

1 governmental entity initiates a condemnation proceeding by filing a  
2 petition under Section 21.012, Property Code, the governmental  
3 entity must authorize the initiation of the condemnation  
4 proceedings at a public meeting by a record vote.

5 (b) A single ordinance, resolution, or order may be adopted  
6 for all units of property to be condemned if:

7 (1) the motion required by Subsection (e) indicates  
8 that the first record vote applies to all units of property to be  
9 condemned; and

10 (2) the minutes of the entity reflect that the first  
11 vote applies to all of those units.

12 (c) If more than one member of the governing body objects to  
13 adopting a single ordinance, resolution, or order by a record vote  
14 for all units of property for which condemnation proceedings are to  
15 be initiated, a separate record vote must be taken for each unit of  
16 property.

17 (d) For the purposes of Subsections (a) and (c), if two or  
18 more units of real property are owned by the same person, the  
19 governmental entity may treat those units of property as one unit of  
20 property.

21 (e) The motion to adopt an ordinance, resolution, or order  
22 authorizing the initiation of condemnation proceedings under  
23 Chapter 21, Property Code, must be made in a form substantially  
24 similar to the following: "I move that the (name of governmental  
25 entity) authorize the use of the power of eminent domain to acquire  
26 (describe the property) for (describe the public use)." The  
27 description of the property required by this subsection is

1 sufficient if the description of the location of and interest in the  
2 property that the governmental entity seeks to acquire is  
3 substantially similar to the description that is or could properly  
4 be used in a petition to condemn the property under Section 21.012,  
5 Property Code.

6 (f) If a project for a public use described by Section  
7 2206.001(c)(3) will require a governmental entity to acquire  
8 multiple tracts or units of property to construct facilities  
9 connecting one location to another location, the governing body of  
10 the entity may adopt a single ordinance, resolution, or order by a  
11 record vote that delegates the authority to initiate condemnation  
12 proceedings to the chief administrative official of the  
13 governmental entity.

14 (g) An ordinance, resolution, or order adopted under  
15 Subsection (f) is not required to identify specific properties that  
16 the governmental entity will acquire. The ordinance, resolution,  
17 or order must identify the general area to be covered by the project  
18 or the general route that will be used by the governmental entity  
19 for the project in a way that provides property owners in and around  
20 the area or along the route reasonable notice that the owners'  
21 properties may be subject to condemnation proceedings during the  
22 planning or construction of the project.

23 SUBCHAPTER C. EXPIRATION OF CERTAIN EMINENT DOMAIN AUTHORITY

24 Sec. 2206.101. REPORT OF EMINENT DOMAIN AUTHORITY;  
25 EXPIRATION OF AUTHORITY. (a) This section does not apply to an  
26 entity that was created or that acquired the power of eminent domain  
27 on or after December 31, 2010.

1       (b) Not later than December 31, 2010, an entity, including a  
2 private entity, authorized by the state by a general or special law  
3 to exercise the power of eminent domain shall submit to the  
4 comptroller a letter stating that the entity is authorized by the  
5 state to exercise the power of eminent domain and identifying the  
6 provision or provisions of law that grant the entity that  
7 authority. The entity must send the letter by certified mail,  
8 return receipt requested.

9       (c) The authority of an entity to exercise the power of  
10 eminent domain expires on September 1, 2011, unless the entity  
11 submits a letter in accordance with Subsection (b).

12       (d) Not later than March 1, 2011, the comptroller shall  
13 submit to the governor, the lieutenant governor, the speaker of the  
14 house of representatives, the appropriate standing committees of  
15 the senate and the house of representatives, and the Texas  
16 Legislative Council a report that contains:

17               (1) the name of each entity that submitted a letter in  
18 accordance with this section; and

19               (2) a corresponding list of the provisions granting  
20 eminent domain authority as identified by each entity that  
21 submitted a letter.

22       (e) The Texas Legislative Council shall prepare for  
23 consideration by the 83rd Legislature, Regular Session, a  
24 nonsubstantive revision of the statutes of this state as necessary  
25 to reflect the state of the law after the expiration of an entity's  
26 eminent domain authority effective under Subsection (c).

27       SECTION 2. Subsection (b), Section 373.002, Local

1 Government Code, is amended to read as follows:

2 (b) Activities conducted under this chapter are directed  
3 toward the following purposes:

4 (1) elimination of [~~slums and~~] areas affected by  
5 blight;

6 (2) prevention of blighting influences and of the  
7 deterioration of property and neighborhood and community  
8 facilities important to the welfare of the community;

9 (3) elimination of conditions detrimental to the  
10 public health, safety, and welfare;

11 (4) expansion and improvement of the quantity and  
12 quality of community services essential for the development of  
13 viable urban communities;

14 (5) more rational use of land and other natural  
15 resources;

16 (6) improved arrangement of residential, commercial,  
17 industrial, recreational, and other necessary activity centers;

18 (7) restoration and preservation of properties of  
19 special value for historic, architectural, or aesthetic reasons;

20 (8) reduction of the isolation of income groups in  
21 communities and geographical areas, promotion of increased  
22 diversity and vitality of neighborhoods through spatial  
23 deconcentration of housing opportunities for persons of low and  
24 moderate income, and revitalization of deteriorating or  
25 deteriorated neighborhoods to attract persons of higher income; and

26 (9) alleviation of physical and economic distress  
27 through the stimulation of private investment and community



1 revitalization in [~~slum or~~] blighted areas.

2 SECTION 3. Section 373.004, Local Government Code, is  
3 amended to read as follows:

4 Sec. 373.004. GOALS OF PROGRAM. Through a community  
5 development program, a municipality may conduct work or activities  
6 designed to:

7 (1) improve the living and economic conditions of  
8 persons of low and moderate income;

9 (2) benefit low or moderate income neighborhoods;

10 (3) aid in the prevention or elimination of [~~slums~~  
11 ~~and~~] blighted areas;

12 (4) aid a federally assisted new community; or

13 (5) meet other urgent community development needs,  
14 including an activity or function specified for a community  
15 development program that incorporates a federally assisted new  
16 community.

17 SECTION 4. Section 373.006, Local Government Code, is  
18 amended to read as follows:

19 Sec. 373.006. REQUIRED PROCEDURES BEFORE ADOPTION OF  
20 COMMUNITY DEVELOPMENT PROGRAM. Before exercising powers under  
21 Section 373.005, the governing body of the municipality must:

22 (1) identify areas of the municipality in which  
23 predominantly low and moderate income persons reside and each unit  
24 of real property in the municipality[7] that has the  
25 characteristics of blight [~~are blighted or slum areas~~] or that is a  
26 [~~are~~] federally assisted new community in the municipality  
27 [~~communities~~];

1           (2) establish community development program areas in  
2 which community development activities, building rehabilitation,  
3 or the acquisition of privately owned buildings or land is  
4 proposed;

5           (3) adopt, by resolution or ordinance, a plan under  
6 which citizens may publicly comment on the proposed community  
7 development program;

8           (4) conduct public hearings on the proposed program  
9 before the 15th day before the date of its final adoption by the  
10 governing body; and

11           (5) adopt the community development program by  
12 resolution or ordinance.

13           SECTION 5. Subsections (a) and (b), Section 374.002, Local  
14 Government Code, are amended to read as follows:

15           (a) The legislature finds that [~~slum and~~] blighted areas  
16 exist in municipalities in this state and that those areas:

17           (1) are a serious and growing menace that is injurious  
18 and inimical to the public health, safety, morals, and welfare of  
19 the residents of this state;

20           (2) contribute substantially and increasingly to the  
21 spread of disease and crime, requiring excessive and  
22 disproportionate expenditures of public funds for the preservation  
23 of the public health and safety, and for crime prevention,  
24 correctional facilities, prosecution and punishment, treatment of  
25 juvenile delinquency, and the maintenance of adequate police, fire,  
26 and accident protection and other public services and facilities;  
27 and

1           (3) constitute an economic and social liability,  
2 substantially impair the sound growth of affected municipalities,  
3 and retard the provision of housing accommodations.

4           (b) For these reasons, prevention and elimination of [~~slum~~  
5 ~~and~~] blighted areas are matters of state policy and concern that may  
6 be best addressed by the combined action of private enterprise,  
7 municipal regulation, and other public action through approved  
8 urban renewal plans. The legislature further finds that the repair  
9 and rehabilitation of buildings and other improvements in affected  
10 areas, public acquisition of real property, demolition of buildings  
11 and other improvements as necessary to eliminate [~~slum-or~~] blight  
12 conditions or to prevent the spread of those conditions, the  
13 disposition of property acquired in affected areas and incidental  
14 to the purposes stated by this subsection, and other public  
15 assistance to eliminate those conditions are public purposes for  
16 which public money may be spent and the power of eminent domain  
17 exercised.

18           SECTION 6. Subdivisions (3), (18), (25), (26), and (28),  
19 Section 374.003, Local Government Code, are amended to read as  
20 follows:

21           (3) "Blighted area" means a tract or unit of property  
22 [~~an area~~] that presents four or more of the following conditions for  
23 at least one year after the date on which notice of the conditions  
24 is provided to the property owner as required by Section  
25 374.018(a)(1) or (b):

26                       (A) the property contains uninhabitable, unsafe,  
27 or abandoned structures;

1           (B) the property has inadequate provisions for  
2 sanitation;

3           (C) there exists on the property an imminent harm  
4 to life or other property caused by fire, flood, hurricane,  
5 tornado, earthquake, storm, or other natural catastrophe declared  
6 to be a disaster under Section 418.014, Government Code, or  
7 certified as a disaster for federal assistance under Section  
8 418.021, Government Code;

9           (D) the property has been identified by the  
10 United States Environmental Protection Agency as a superfund site  
11 under the federal Comprehensive Environmental Response,  
12 Compensation, and Liability Act of 1980 (42 U.S.C. Section 9601 et  
13 seq.) or as environmentally contaminated to an extent that the  
14 property requires remedial investigation or a feasibility study;

15           (E) the property has been the location of  
16 substantiated and repeated illegal activity of which the property  
17 owner knew or should have known;

18           (F) the maintenance of the property is below  
19 county or municipal standards;

20           (G) the property is abandoned and contains a  
21 structure that is not fit for its intended use because the  
22 utilities, sewerage, plumbing, or heating or a similar service or  
23 facility of the structure has been disconnected, destroyed,  
24 removed, or rendered ineffective; or

25           (H) the property presents an economic liability  
26 to the immediate area because of deteriorating structures or  
27 hazardous conditions [~~is not a slum area, but that, because of~~

1 ~~deteriorating buildings, structures, or other improvements,~~  
2 ~~defective or inadequate streets, street layout, or accessibility,~~  
3 ~~unsanitary conditions, or other hazardous conditions, adversely~~  
4 ~~affects the public health, safety, morals, or welfare of the~~  
5 ~~municipality and its residents, substantially retards the~~  
6 ~~provision of a sound and healthful housing environment, or results~~  
7 ~~in an economic or social liability to the municipality. The term~~  
8 ~~includes an area certified as a disaster area as provided by Section~~  
9 ~~374.903].~~

10 (18) "Rehabilitation" means the restoration of  
11 buildings or other structures to prevent deterioration of an area  
12 that is tending to become a blighted area [~~or a slum area~~].

13 (25) "Urban renewal activities" includes [~~slum~~  
14 ~~clearance,~~] redevelopment, rehabilitation, and conservation  
15 activities to prevent further deterioration of an area that is  
16 tending to become a blighted [~~or slum~~] area. The term includes:

17 (A) the acquisition of all or part of a [~~slum area~~  
18 ~~or~~] blighted area or the acquisition of land that is predominantly  
19 open and that, because of obsolete platting, diversity of  
20 ownership, deterioration of structures or site improvements, or for  
21 other reasons, substantially impairs or arrests the sound growth of  
22 the community;

23 (B) the demolition and removal of buildings and  
24 improvements;

25 (C) the installation, construction, or  
26 reconstruction of streets, utilities, parks, playgrounds, and  
27 other improvements necessary to fulfill urban renewal objectives in

1 accordance with an urban renewal plan;

2 (D) the disposition by the municipality of  
3 property acquired in an urban renewal area for use in accordance  
4 with an urban renewal plan, including the sale or initial lease of  
5 the property at its fair value or the retention of the property;

6 (E) the implementation of plans for a program of  
7 voluntary repair and rehabilitation of buildings or improvements in  
8 accordance with an urban renewal plan; and

9 (F) the acquisition of real property in an urban  
10 renewal area as necessary to remove or prevent the spread of blight  
11 or deterioration or to provide land for needed public facilities.

12 (26) "Urban renewal area" means a [~~slum area,~~  
13 blighted area~~, or a combination of those areas~~] that the governing  
14 body of a municipality designates as appropriate for an urban  
15 renewal project.

16 (28) "Urban renewal project" includes any of the  
17 following activities undertaken in accordance with an urban renewal  
18 plan:

19 (A) municipal activities in an urban renewal area  
20 that are designed to eliminate or to prevent the development or  
21 spread of [~~slums and~~] blighted areas;

22 (B) [~~slum clearance and redevelopment in an urban~~  
23 ~~renewal area,~~

24 [~~(C)~~] rehabilitation or conservation in an urban  
25 renewal area;

26 (C) [~~(D)~~] development of open land that, because  
27 of location or situation, is necessary for sound community growth

1 and that is to be developed, by replatting and planning, for  
2 predominantly residential uses; or

3 (D) [~~(E)~~] any combination or part of the  
4 activities described by Paragraphs (A)-(C) [~~(A)-(D)~~].

5 SECTION 7. Section 374.011, Local Government Code, is  
6 amended by amending Subsection (a) and adding Subsection (d) to  
7 read as follows:

8 (a) Except as provided by Section 374.012, a municipality  
9 may not exercise a power granted under this chapter unless:

10 (1) the governing body of the municipality adopts a  
11 resolution that finds that a [~~slum area or~~] blighted area exists in  
12 the municipality and that the rehabilitation, the conservation, or  
13 the [~~slum clearance and~~] redevelopment of the area is necessary for  
14 the public health, safety, morals, or welfare of the residents of  
15 the municipality; and

16 (2) a majority of the municipality's voters voting in  
17 an election held as provided by Subsection (b) favor adoption of the  
18 resolution.

19 (d) The governing body of the municipality must determine  
20 that each unit of real property included in a resolution under  
21 Subsection (a) has the characteristics of blight.

22 SECTION 8. Subsection (c), Section 374.012, Local  
23 Government Code, is amended to read as follows:

24 (c) The resolution ordering the election and the notice of  
25 the election must contain:

26 (1) a complete legal description of each unit of  
27 property [~~the area~~] included in the proposed project;

- 1           (2) a statement of the nature of the proposed project;  
2 ~~[and]~~
- 3           (3) a statement of the total amount of local funds to  
4 be spent on the proposed project; and
- 5           (4) a statement that each unit of property has the  
6 characteristics of blight.

7           SECTION 9. Subsection (a), Section 374.013, Local  
8 Government Code, is amended to read as follows:

9           (a) To further the urban renewal objectives of this chapter,  
10 a municipality may formulate a workable program to use appropriate  
11 private and public resources, including the resources specified by  
12 Subsection (b), to encourage urban rehabilitation, to provide for  
13 the redevelopment of ~~[slum and]~~ blighted areas, or to undertake  
14 those activities or other feasible municipal activities as may be  
15 suitably employed to achieve the objective of the program. The  
16 program must specifically include provisions relating to:

17           (1) prevention, through diligent enforcement of  
18 housing and occupancy controls and standards, of the expansion of  
19 blight into areas of the municipality that are free from blight; and

20           (2) rehabilitation or conservation of ~~[slum and]~~  
21 blighted areas as far as practicable to areas that are free from  
22 blight through replanning, removing congestion, providing parks,  
23 playgrounds, and other public improvements, encouraging voluntary  
24 rehabilitation and requiring the repair and rehabilitation of  
25 deteriorated or deteriorating structures~~[, and the clearance and~~  
26 ~~redevelopment of slum areas]~~.

27           SECTION 10. Subsection (a), Section 374.014, Local



1 Government Code, is amended to read as follows:

2 (a) A municipality may not prepare an urban renewal plan for  
3 an area unless the governing body of the municipality has, by  
4 resolution, declared the area to be a [~~slum area, a~~] blighted area[~~r~~  
5 ~~or both,~~] and has designated the area as appropriate for an urban  
6 renewal project. The governing body may not approve an urban  
7 renewal plan until a general plan has been prepared for the  
8 municipality. A municipality may not acquire real property for an  
9 urban renewal project until the governing body has approved the  
10 urban renewal plan as provided by Subsection (d).

11 SECTION 11. Subsections (a) and (d), Section 374.015, Local  
12 Government Code, are amended to read as follows:

13 (a) A municipality may exercise all powers necessary or  
14 convenient to carry out the purposes of this chapter, including the  
15 power to:

16 (1) conduct preliminary surveys to determine if  
17 undertaking an urban renewal project is feasible;

18 (2) conduct urban renewal projects within its area of  
19 operation;

20 (3) execute contracts and other instruments necessary  
21 or convenient to the exercise of its powers under this chapter;

22 (4) provide, arrange, or contract for the furnishing  
23 or repair by any person of services, privileges, works, streets,  
24 roads, public utilities, or other facilities in connection with an  
25 urban renewal project, including installation, construction, and  
26 reconstruction of streets, utilities, parks, playgrounds, and  
27 other public improvements necessary to carry out an urban renewal

1 project;

2           (5) acquire any real property, including  
3 improvements, and any personal property necessary for  
4 administrative purposes, that is necessary or incidental to an  
5 urban renewal project, hold, improve, clear, or prepare the  
6 property for redevelopment, mortgage or otherwise encumber or  
7 dispose of the real property, insure or provide for the insurance of  
8 real or personal property or municipal operations against any risk  
9 or hazard and to pay premiums on that insurance, and enter any  
10 necessary contracts;

11           (6) invest urban renewal project funds held in  
12 reserves or sinking funds, or not required for immediate  
13 disbursement, in property or securities in which banks may legally  
14 invest funds subject to their control, redeem bonds issued under  
15 Section 374.026 at the redemption price established in the bond, or  
16 purchase those bonds at less than the redemption price, and cancel  
17 the bonds redeemed or purchased;

18           (7) borrow money and apply for and accept advances,  
19 loans, grants, contributions, and other forms of financial  
20 assistance from the federal, state, or county government, other  
21 public body, or other public or private sources for the purposes of  
22 this chapter, give any required security, and make and carry out any  
23 contracts in connection with the financial assistance;

24           (8) make plans necessary to carry out this chapter in  
25 its area of operation, contract with any person in making and  
26 carrying out the plans, and adopt, approve, modify or amend the  
27 plans;

1           (9) develop, test, and report methods and techniques  
2 for the prevention of [~~slums~~ and] urban blight, conduct  
3 demonstrations and other activities in connection with those  
4 methods and techniques, and apply for, accept, and use federal  
5 grants made for those purposes;

6           (10) prepare plans and provide reasonable assistance  
7 for the relocation of persons displaced from an urban renewal  
8 project area, including families, business concerns, and others, as  
9 necessary to acquire possession and to clear the area in order to  
10 conduct the urban renewal project;

11           (11) appropriate funds and make expenditures as  
12 necessary to implement this chapter and, subject to Subsection (c),  
13 levy taxes and assessments for that purpose;

14           (12) close, vacate, plan, or replan streets, roads,  
15 sidewalks, ways, or other places, plan, replan, zone, or rezone any  
16 part of the municipality and make exceptions from building  
17 regulations, and enter agreements with an urban renewal agency  
18 vested with urban renewal powers under Subchapter C, which may  
19 extend over any period, restricting action to be taken by the  
20 municipality under any of the powers granted under this chapter;

21           (13) organize, coordinate, and direct the  
22 administration of this chapter within the area of operation as  
23 those provisions apply to the municipality to most effectively  
24 promote and achieve the purposes of this chapter and establish new  
25 municipal offices or reorganize existing offices as necessary to  
26 most effectively implement those purposes; and

27           (14) issue tax increment bonds.

1           (d) A [~~Except as provided by Section 374.016, a~~]  
2 municipality may acquire by condemnation any interest in real  
3 property, including a fee simple interest, that the municipality  
4 considers necessary for or in connection with an urban renewal  
5 project. Property dedicated to a public use may be acquired in that  
6 manner, except that property belonging to the state or to a  
7 political subdivision of the state may not be acquired without the  
8 consent of the state or political subdivision.

9           SECTION 12. Subsection (d), Section 374.017, Local  
10 Government Code, is amended to read as follows:

11           (d) Real property or an interest in real property subject to  
12 this section may only be sold, leased, or otherwise transferred or  
13 retained at not less than the fair value of the property for uses in  
14 accordance with the urban renewal plan. In determining the fair  
15 value, the municipality shall consider:

- 16                   (1) the uses provided in the urban renewal plan;
- 17                   (2) any restrictions on and any covenants, conditions,  
18 and obligations assumed by the purchaser, lessee, or municipality  
19 in retaining the property;
- 20                   (3) the objectives of the plan for the prevention of  
21 the recurrence of [~~slums or~~] blighted areas; and
- 22                   (4) any other matters that the municipality specifies  
23 as appropriate.

24           SECTION 13. Subsection (b), Section 374.021, Local  
25 Government Code, is amended to read as follows:

26           (b) In this section, "urban renewal project powers"  
27 includes the rights, powers, functions, and duties of a

1 municipality under this chapter. The term does not include the  
2 power to:

3 (1) determine an area as a [~~slum area~~] blighted  
4 area[~~, or both~~] and to designate that area as appropriate for an  
5 urban renewal project;

6 (2) approve and amend urban renewal plans and hold  
7 public hearings relating to those plans;

8 (3) establish a general plan for the locality as a  
9 whole;

10 (4) establish a workable program under Section  
11 374.013;

12 (5) make determinations and findings under Section  
13 374.011(a), 374.013(b), or 374.014(d);

14 (6) issue general obligation bonds; and

15 (7) appropriate funds, levy taxes and assessments, and  
16 exercise other functions under Subdivisions (11) and (12) of  
17 Section 374.015(a).

18 SECTION 14. Subchapter B, Chapter 374, Local Government  
19 Code, is amended by adding Sections 374.018 and 374.019 to read as  
20 follows:

21 Sec. 374.018. LIMITATIONS ON CHARACTERIZATIONS OF BLIGHT.

22 (a) Notwithstanding any other law, an area may not be considered a  
23 blighted area on the basis of a condition described by Section  
24 374.003 unless:

25 (1) the municipality has given notice in writing to  
26 the property owner by first class mail regarding the condition to  
27 the:

1           (A) last known address of the property owner; and  
2           (B) physical address of the property; and  
3           (2) the property owner fails to take reasonable  
4 measures to remedy the condition.

5           (b) If a mailing address for the property owner cannot be  
6 determined, the municipality shall post notice in writing regarding  
7 the condition in a conspicuous place on the property.

8           (c) An area may not be considered a blighted area solely for  
9 an aesthetic reason.

10           (d) A determination by a municipality that a unit of real  
11 property has the characteristics of blight is valid for two years.

12           (e) After the two-year period prescribed by Subsection (d),  
13 a municipality may make a new determination that the unit of real  
14 property has the characteristics of blight and redesignate the unit  
15 of real property as a blighted area for another two-year period.

16           (f) A municipality may remove a determination of blight  
17 under this chapter if the municipality finds that the property  
18 owner has remedied the condition that was the basis for the  
19 determination.

20           Sec. 374.019. COMMON OWNER PROPERTY. For the purposes of  
21 this chapter and Chapter 21, Property Code, if a municipality  
22 determines that two or more contiguous units of real property that  
23 are owned by the same person have the characteristics of blight, the  
24 municipality may treat those units of property as one unit of  
25 property.

26           SECTION 15. Section 21.0111, Property Code, is amended to  
27 read as follows:

1           Sec. 21.0111. DISCLOSURE OF CERTAIN INFORMATION REQUIRED;  
2 INITIAL OFFER. (a) An [~~A governmental~~] entity with eminent domain  
3 authority that wants to acquire real property for a public use  
4 shall, by certified mail, return receipt requested, disclose to the  
5 property owner at the time an offer to purchase or lease the  
6 property is made any and all [~~existing~~] appraisal reports produced  
7 or acquired by the [~~governmental~~] entity relating specifically to  
8 the owner's property and prepared in the 10 years preceding the  
9 [used in determining the final valuation] offer.

10           (b) A property owner shall disclose to the [~~acquiring~~  
11 ~~governmental~~] entity seeking to acquire the property any and all  
12 current and existing appraisal reports produced or acquired by the  
13 property owner relating specifically to the owner's property and  
14 used in determining the owner's opinion of value. Such disclosure  
15 shall take place not later than the earlier of:

16                   (1) the 10th day after the date [~~within 10 days~~] of  
17 receipt of an appraisal report; or

18                   (2) the third business day before the date of a special  
19 commissioners hearing if an appraisal report is to be used at the  
20 hearing [~~reports but no later than 10 days prior to the special~~  
21 ~~commissioner's hearing~~].

22           (c) An entity seeking to acquire property that the entity is  
23 authorized to obtain through the use of eminent domain may not  
24 include a confidentiality provision in an offer or agreement to  
25 acquire the property. The entity shall inform the owner of the  
26 property that the owner has the right to:

27                   (1) discuss any offer or agreement regarding the

1 entity's acquisition of the property with others; or

2 (2) keep the offer or agreement confidential, unless  
3 the offer or agreement is subject to Chapter 552, Government Code.

4 (d) A subsequent bona fide purchaser for value from the  
5 acquiring [~~governmental~~] entity may conclusively presume that the  
6 requirement of this section has been met. This section does not  
7 apply to acquisitions of real property for which an [~~a~~  
8 ~~governmental~~] entity does not have eminent domain authority.

9 SECTION 16. Subchapter B, Chapter 21, Property Code, is  
10 amended by adding Section 21.0113 to read as follows:

11 Sec. 21.0113. BONA FIDE OFFER REQUIRED. (a) An entity  
12 with eminent domain authority that wants to acquire real property  
13 for a public use must make a bona fide offer to acquire the property  
14 from the property owner voluntarily.

15 (b) An entity with eminent domain authority has made a bona  
16 fide offer if:

17 (1) an initial offer is made in writing to a property  
18 owner;

19 (2) a final offer is made in writing to the property  
20 owner;

21 (3) the final offer is made on or after the 30th day  
22 after the date on which the entity makes a written initial offer to  
23 the property owner;

24 (4) before making a final offer, the entity obtains a  
25 written appraisal from a certified appraiser of the value of the  
26 property being acquired and the damages, if any, to any remaining  
27 property;



1           (5) the final offer is equal to or greater than the  
2 amount of the written appraisal obtained by the entity;

3           (6) the following items are included with the final  
4 offer or have been previously provided to the owner by the entity:

5                   (A) a copy of the written appraisal;

6                   (B) a copy of the deed, easement, or other  
7 instrument conveying the property sought to be acquired; and

8                   (C) a landowner's bill of rights statement; and

9           (7) the entity provides the property owner with at  
10 least 14 days to respond to the final offer and the property owner  
11 does not agree to the terms of the final offer within that time.

12           SECTION 17. Section 21.012, Property Code, is amended to  
13 read as follows:

14           Sec. 21.012. CONDEMNATION PETITION. (a) If an entity [~~the~~  
15 ~~United States, this state, a political subdivision of this state, a~~  
16 ~~corporation~~] with eminent domain authority[, ~~or an irrigation,~~  
17 ~~water improvement, or water power control district created by law~~]  
18 wants to acquire real property for public use but is unable to agree  
19 with the owner of the property on the amount of damages, the  
20 [~~condemning~~] entity may begin a condemnation proceeding by filing a  
21 petition in the proper court.

22           (b) The petition must:

23                   (1) describe the property to be condemned;

24                   (2) state with specificity the public use [~~purpose~~]  
25 for which the entity intends to acquire [~~use~~] the property;

26                   (3) state the name of the owner of the property if the  
27 owner is known;

1 (4) state that the entity and the property owner are  
2 unable to agree on the damages; ~~and~~

3 (5) if applicable, state that the entity provided the  
4 property owner with the landowner's bill of rights statement in  
5 accordance with Section 21.0112; and

6 (6) state that the entity made a bona fide offer to  
7 acquire the property from the property owner voluntarily.

8 (c) An entity that files a petition under this section must  
9 provide a copy of the petition to the property owner by certified  
10 mail, return receipt requested.

11 SECTION 18. Subsection (a), Section 21.014, Property Code,  
12 is amended to read as follows:

13 (a) The judge of a court in which a condemnation petition is  
14 filed or to which an eminent domain case is assigned shall appoint  
15 three disinterested real property owners ~~[freeholders]~~ who reside  
16 in the county as special commissioners to assess the damages of the  
17 owner of the property being condemned. The judge appointing the  
18 special commissioners shall give preference to persons agreed on by  
19 the parties. The judge shall provide each party a reasonable period  
20 to strike one of the three commissioners appointed by the judge. If  
21 a person fails to serve as a commissioner or is struck by a party to  
22 the suit, the judge shall ~~may~~ appoint a replacement.

23 SECTION 19. Subsection (a), Section 21.015, Property Code,  
24 is amended to read as follows:

25 (a) The special commissioners in an eminent domain  
26 proceeding shall promptly schedule a hearing for the parties at the  
27 earliest practical time but may not schedule a hearing to assess

1 damages before the 20th day after the date the special  
2 commissioners were appointed. The special commissioners shall  
3 schedule a hearing for the parties ~~[and]~~ at a place that is as near  
4 as practical to the property being condemned or at the county seat  
5 of the county in which the proceeding is being held.

6 SECTION 20. Subsection (b), Section 21.016, Property Code,  
7 is amended to read as follows:

8 (b) Notice of the hearing must be served on a party not later  
9 than the 20th ~~[11th]~~ day before the day set for the hearing. A  
10 person competent to testify may serve the notice.

11 SECTION 21. Section 21.023, Property Code, is amended to  
12 read as follows:

13 Sec. 21.023. DISCLOSURE OF INFORMATION REQUIRED AT TIME OF  
14 ACQUISITION. An ~~[A governmental]~~ entity with eminent domain  
15 authority shall disclose in writing to the property owner, at the  
16 time of acquisition of the property through eminent domain, that:

17 (1) the owner or the owner's heirs, successors, or  
18 assigns may be ~~[are]~~ entitled to:

19 (A) repurchase the property under Subchapter E  
20 ~~[if the public use for which the property was acquired through~~  
21 ~~eminent domain is canceled before the 10th anniversary of the date~~  
22 ~~of acquisition]; or~~

23 (B) request from the entity certain information  
24 relating to the use of the property and any actual progress made  
25 toward that use; and

26 (2) the repurchase price is the lesser of:

27 (A) the price paid to the owner by the entity at

1 the time the entity acquired the property through eminent domain;  
2 or

3 (B) the fair market value of the property at the  
4 time the public use was canceled.

5 SECTION 22. Subchapter B, Chapter 21, Property Code, is  
6 amended by adding Section 21.025 to read as follows:

7 Sec. 21.025. PRODUCTION OF INFORMATION BY CERTAIN ENTITIES.

8 (a) Notwithstanding any other law, an entity that is not subject  
9 to Chapter 552, Government Code, and is authorized by law to acquire  
10 private property through the use of eminent domain is required to  
11 produce information as provided by this section if the information  
12 is:

13 (1) requested by a person who owns property that is the  
14 subject of a proposed or existing eminent domain proceeding; and

15 (2) related to the taking of the person's private  
16 property by the entity through the use of eminent domain.

17 (b) An entity described by Subsection (a) is required under  
18 this section only to produce information relating to the  
19 condemnation of the specific property owned by the requestor as  
20 described in the request. A request under this section must contain  
21 sufficient details to allow the entity to identify the specific  
22 tract of land in relation to which the information is sought.

23 (c) The entity shall respond to a request in accordance with  
24 the Texas Rules of Civil Procedure as if the request was made in a  
25 matter pending before a state district court.

26 (d) Exceptions to disclosure provided by this chapter and  
27 the Texas Rules of Civil Procedure apply to the disclosure of

1 information under this section.

2 (e) Jurisdiction to enforce the provisions of this section  
3 resides in:

4 (1) the court in which the condemnation was initiated;  
5 or

6 (2) if the condemnation proceeding has not been  
7 initiated:

8 (A) a court that would have jurisdiction over a  
9 proceeding to condemn the requestor's property; or

10 (B) a court with eminent domain jurisdiction in  
11 the county in which the entity has its principal place of business.

12 (f) If the entity refuses to produce information requested  
13 in accordance with this section and the court determines that the  
14 refusal violates this section, the court may award the requestor's  
15 reasonable attorney's fees incurred to compel the production of the  
16 information.

17 SECTION 23. Section 21.041, Property Code, is amended to  
18 read as follows:

19 Sec. 21.041. EVIDENCE. As the basis for assessing actual  
20 damages to a property owner from a condemnation, the special  
21 commissioners shall admit evidence on:

22 (1) the value of the property being condemned;

23 (2) the injury to the property owner, including, if  
24 the condemnation makes relocation of a homestead or farm necessary,  
25 the financial damages associated with the cost of relocating from  
26 the condemned property to another property that allows the property  
27 owner, without the necessity of incurring an amount of debt, debt

1 service, or total projected interest obligation that is higher than  
2 the property owner was subject to immediately before the  
3 condemnation, to:

4 (A) have a standard of living comparable to the  
5 property owner's standard of living immediately before the  
6 condemnation, if the condemned property is a homestead that is  
7 habitable; or

8 (B) operate a comparable farm, if the condemned  
9 property is a farm;

10 (3) the benefit to the property owner's remaining  
11 property; and

12 (4) the use of the property for the purpose of the  
13 condemnation.

14 SECTION 24. Subsection (d), Section 21.042, Property Code,  
15 is amended to read as follows:

16 (d) In estimating injury or benefit under Subsection (c),  
17 the special commissioners shall consider an injury or benefit that  
18 is peculiar to the property owner, including the property owner's  
19 financial damages described by Section 21.041(2), and that relates  
20 to the property owner's ownership, use, or enjoyment of the  
21 particular parcel of real property, including a material impairment  
22 of direct access on or off the remaining property that affects the  
23 market value of the remaining property, but they may not consider an  
24 injury or benefit that the property owner experiences in common  
25 with the general community, including circuitry of travel and  
26 diversion of traffic. In this subsection, "direct access" means  
27 ingress and egress on or off a public road, street, or highway at a

1 location or locations where the remaining property adjoins that  
2 road, street, or highway.

3 SECTION 25. Subsections (a) and (b), Section 21.046,  
4 Property Code, are amended to read as follows:

5 (a) A department, agency, instrumentality, or political  
6 subdivision of this state shall [~~may~~] provide a relocation advisory  
7 service for an individual, a family, a business concern, a farming  
8 or ranching operation, or a nonprofit organization that [~~if the~~  
9 ~~service~~] is compatible with the Federal Uniform Relocation  
10 Assistance and Real Property Acquisition Policies Act of 1970  
11 [~~Advisory Program~~], 42 U.S.C.A. 4601 [~~23 U.S.C.A. 501~~], et seq.

12 (b) This state or a political subdivision of this state  
13 shall [~~may~~], as a cost of acquiring real property, pay moving  
14 expenses and rental supplements, make relocation payments, provide  
15 financial assistance to acquire replacement housing, and  
16 compensate for expenses incidental to the transfer of the property  
17 if an individual, a family, the personal property of a business, a  
18 farming or ranching operation, or a nonprofit organization is  
19 displaced in connection with the acquisition.

20 SECTION 26. The heading to Section 21.047, Property Code,  
21 is amended to read as follows:

22 Sec. 21.047. ASSESSMENT OF COSTS AND FEES.

23 SECTION 27. Section 21.047, Property Code, is amended by  
24 adding Subsection (d) to read as follows:

25 (d) If a court hearing a suit under this chapter determines  
26 that a condemnor did not make a bona fide offer to acquire the  
27 property from the property owner voluntarily as required by Section

1 21.0113, the court shall abate the suit, order the condemnor to make  
2 a bona fide offer, and order the condemnor to pay:

- 3 (1) all costs as provided by Subsection (a); and  
4 (2) any reasonable attorney's fees and other  
5 professional fees incurred by the property owner that are directly  
6 related to the violation.

7 SECTION 28. Subchapter E, Chapter 21, Property Code, is  
8 amended to read as follows:

9 SUBCHAPTER E. REPURCHASE OF REAL PROPERTY FROM CONDEMNING  
10 [GOVERNMENTAL] ENTITY

11 Sec. 21.101. RIGHT OF REPURCHASE [APPLICABILITY]. (a) A  
12 person from whom [Except as provided in Subsection (b), this  
13 subchapter applies only to] a real property interest is acquired by  
14 an [a governmental] entity through eminent domain for a public use,  
15 or that person's heirs, successors, or assigns, is entitled to  
16 repurchase the property as provided by this subchapter if:

17 (1) the public use for which the property was acquired  
18 through eminent domain is [that was] canceled before the property  
19 is used for that public use;

20 (2) no actual progress is made toward the public use  
21 for which the property was acquired between the date of acquisition  
22 and the 10th anniversary of that date; or

23 (3) the property becomes unnecessary for the public  
24 use for which the property was acquired, or a substantially similar  
25 public use, before the 10th anniversary of the date of acquisition.

26 (b) In this section, "actual progress" means the completion  
27 of two or more of the following actions:



1           (1) the performance of a significant amount of labor  
2 to develop the property or other property acquired for the same  
3 public use project for which the property owner's property was  
4 acquired;

5           (2) the furnishing of a significant amount of  
6 materials to develop the property or other property acquired for  
7 the same public use project for which the property owner's property  
8 was acquired;

9           (3) the hiring of and performance of a significant  
10 amount of work by an architect, engineer, or surveyor to prepare a  
11 plan or plat that includes the property or other property acquired  
12 for the same public use project for which the property owner's  
13 property was acquired;

14           (4) application for state or federal funds to develop  
15 the property or other property acquired for the same public use  
16 project for which the property owner's property was acquired;

17           (5) application for a state or federal permit to  
18 develop the property or other property acquired for the same public  
19 use project for which the property owner's property was acquired;

20           (6) the acquisition of a tract or parcel of real  
21 property adjacent to the property for the same public use project  
22 for which the owner's property was acquired; or

23           (7) for a governmental entity, the adoption by a  
24 majority of the entity's governing body at a public hearing of a  
25 development plan for a public use project that indicates that the  
26 entity will not complete more than one action described by  
27 Subdivisions (1)-(6) within 10 years of acquisition of the property

1 ~~[This subchapter does not apply to a right-of-way under the~~  
2 ~~jurisdiction of:~~

3 ~~(1) a county;~~

4 ~~(2) a municipality; or~~

5 ~~(3) the Texas Department of Transportation].~~

6 (c) A district court may determine all issues in any suit  
7 regarding the repurchase of a real property interest acquired  
8 through eminent domain by the former property owner or the owner's  
9 heirs, successors, or assigns.

10       Sec. 21.102. NOTICE TO PREVIOUS PROPERTY OWNER REQUIRED ~~[AT~~  
11 ~~TIME OF CANCELLATION OF PUBLIC USE]~~. Not later than the 180th day  
12 after the date an entity that acquired a real property interest  
13 through eminent domain determines that the former property owner is  
14 entitled to repurchase the property under Section 21.101 ~~[of the~~  
15 ~~cancellation of the public use for which real property was acquired~~  
16 ~~through eminent domain from a property owner under Subchapter B],~~  
17 the ~~[governmental]~~ entity shall send by certified mail, return  
18 receipt requested, to the property owner or the owner's heirs,  
19 successors, or assigns a notice containing:

20           (1) an identification, which is not required to be a  
21 legal description, of the property that was acquired;

22           (2) an identification of the public use for which the  
23 property had been acquired and a statement that:

24                   (A) the public use was ~~[has been]~~ canceled before  
25 the property was used for the public use;

26                   (B) no actual progress was made toward the public  
27 use; or

1           (C) the property became unnecessary for the  
2 public use, or a substantially similar public use, before the 10th  
3 anniversary of the date of acquisition; and

4           (3) a description of the person's right under this  
5 subchapter to repurchase the property.

6           Sec. 21.1021. REQUESTS FOR INFORMATION REGARDING CONDEMNED  
7 PROPERTY. (a) On or after the 10th anniversary of the date on  
8 which real property was acquired by an entity through eminent  
9 domain, a property owner or the owner's heirs, successors, or  
10 assigns may request that the condemning entity make a determination  
11 and provide a statement and other relevant information regarding:

12           (1) whether the public use for which the property was  
13 acquired was canceled before the property was used for the public  
14 use;

15           (2) whether any actual progress was made toward the  
16 public use between the date of acquisition and the 10th anniversary  
17 of that date, including an itemized description of the progress  
18 made, if applicable; and

19           (3) whether the property became unnecessary for the  
20 public use, or a substantially similar public use, before the 10th  
21 anniversary of the date of acquisition.

22           (b) A request under this section must contain sufficient  
23 detail to allow the entity to identify the specific tract of land in  
24 relation to which the information is sought.

25           (c) Not later than the 90th day following the receipt of the  
26 request for information, the entity shall send a written response  
27 by certified mail, return receipt requested, to the requestor.

1           Sec. 21.103. RESALE OF PROPERTY; PRICE. (a) Not later  
2 than the 180th day after the date of the postmark on a [the] notice  
3 sent under Section 21.102 or a response to a request made under  
4 Section 21.1021 that indicates that the property owner or the  
5 owner's heirs, successors, or assigns is entitled to repurchase the  
6 property interest in accordance with Section 21.101, the property  
7 owner or the owner's heirs, successors, or assigns must notify the  
8 ~~[governmental]~~ entity of the person's intent to repurchase the  
9 property interest under this subchapter.

10           (b) As soon as practicable after receipt of a notice of  
11 intent to repurchase [the notification] under Subsection (a), the  
12 ~~[governmental]~~ entity shall offer to sell the property interest to  
13 the person for the lesser of the price paid to the owner by the  
14 entity at the time the entity acquired the property through eminent  
15 domain or the fair market value of the property at the time the  
16 public use was canceled. The person's right to repurchase the  
17 property expires on the 90th day after the date on which the  
18 ~~[governmental]~~ entity makes the offer.

19           SECTION 29. Section 311.002, Tax Code, is amended by adding  
20 Subdivision (5) to read as follows:

21                   (5) "Blighted area" has the meaning assigned by  
22 Section 374.003(3), Local Government Code.

23           SECTION 30. Subsections (b) and (e), Section 311.008, Tax  
24 Code, are amended to read as follows:

25           (b) A municipality or county may exercise any power  
26 necessary and convenient to carry out this chapter, including the  
27 power to:

1           (1) cause project plans to be prepared, approve and  
2 implement the plans, and otherwise achieve the purposes of the  
3 plan;

4           (2) acquire real property by purchase [~~condemnation,~~  
5 ~~or other means~~] to implement project plans and sell that property on  
6 the terms and conditions and in the manner it considers advisable;

7           (3) enter into agreements, including agreements with  
8 bondholders, determined by the governing body of the municipality  
9 or county to be necessary or convenient to implement project plans  
10 and achieve their purposes, which agreements may include  
11 conditions, restrictions, or covenants that run with the land or  
12 that by other means regulate or restrict the use of land; and

13           (4) consistent with the project plan for the zone:

14           (A) acquire [~~blighted, deteriorated,~~  
15 ~~deteriorating, undeveloped, or inappropriately developed~~] real  
16 property or other property in a blighted area, in an undeveloped  
17 area, or in a federally assisted new community in the zone for the  
18 preservation or restoration of historic sites, beautification or  
19 conservation, the provision of public works or public facilities,  
20 or other public purposes;

21           (B) acquire, construct, reconstruct, or install  
22 public works, facilities, or sites or other public improvements,  
23 including utilities, streets, street lights, water and sewer  
24 facilities, pedestrian malls and walkways, parks, flood and  
25 drainage facilities, or parking facilities, but not including  
26 educational facilities; [~~or~~]

27           (C) in a reinvestment zone created on or before

1 September 1, 1999, acquire, construct, or reconstruct educational  
2 facilities in the municipality; or

3 (D) acquire by condemnation any interest,  
4 including a fee simple interest, in real property that is a blighted  
5 area and necessary for the reinvestment zone.

6 (e) A municipality or county may acquire by condemnation an  
7 interest in real property only if the taking is in accordance with  
8 Chapter 2206, Government Code. [~~The implementation of a project~~  
9 ~~plan to alleviate a condition described by Section 311.005(a)(1),~~  
10 ~~(2), or (3) and to promote development or redevelopment of a~~  
11 ~~reinvestment zone in accordance with this chapter serves a public~~  
12 ~~purpose.]~~

13 SECTION 31. Section 202.021, Transportation Code, is  
14 amended by adding Subsection (j) to read as follows:

15 (j) The standard for determination of the fair value of the  
16 state's interest in access rights to a highway right-of-way is the  
17 same legal standard that is applied by the commission in the:

18 (1) acquisition of access rights under Subchapter D,  
19 Chapter 203; and

20 (2) payment of damages in the exercise of the  
21 authority, under Subchapter C, Chapter 203, for impairment of  
22 highway access to or from real property where the real property  
23 adjoins the highway.

24 SECTION 32. Section 54.209, Water Code, is amended to read  
25 as follows:

26 Sec. 54.209. LIMITATION ON USE OF EMINENT DOMAIN. A  
27 district may not exercise the power of eminent domain outside the

1 district boundaries to acquire:

2 (1) a site for a water treatment plant, water storage  
3 facility, wastewater treatment plant, or wastewater disposal  
4 plant;

5 (2) a site for a park, swimming pool, or other  
6 recreational facility, as defined by Section 49.462 [~~except a~~  
7 ~~trail~~];

8 [~~a site for a trail on real property designated as~~  
9 ~~a homestead as defined by Section 41.002, Property Code; or~~

10 [~~(4)~~] an exclusive easement through a county regional  
11 park; or

12 (4) a site or easement for a road project.

13 SECTION 33. Chapter 178 (S.B. 289), Acts of the 56th  
14 Legislature, Regular Session, 1959 (Article 3183b-1, Vernon's  
15 Texas Civil Statutes), is amended by adding Section 7 to read as  
16 follows:

17 Sec. 7. (a) In this section:

18 (1) "Associated low-density multifamily residential  
19 housing" means housing that is located in a residential  
20 neighborhood or is shown to be an adjunct, section, or other  
21 integral part of a residential neighborhood, including townhouses,  
22 patio homes, triplexes, quadruplexes, or other low-rise housing of  
23 no more than four stories.

24 (2) "Blockbusting activity" means an avoidable act or  
25 omission by a medical center condemning entity or the entity's  
26 members that is intended to cause, or foreseeably will cause, a  
27 substantial reduction of residential-use property values in a

1 residential area, whether in anticipation of sale to the entity or  
2 the entity's members or otherwise, including an act or omission:

3 (A) having the effect of increasing traffic,  
4 noise, or light intrusion;

5 (B) involving demolition of improvements or  
6 property; or

7 (C) allowing improved property to become  
8 blighted.

9 (3) "Deed-restricted residential subdivision" means a  
10 subdivision, including all of its sections, annexes, extensions, or  
11 other additional associated parcels or tracts, that is governed by  
12 deed restrictions that restrict the property to residential use and  
13 consists of lots for single-family dwellings and associated  
14 low-density multifamily residential housing within the  
15 subdivision.

16 (4) "Medical center condemning entity" means:

17 (A) a charitable corporation having the power of  
18 eminent domain under Section 1 of this Act; or

19 (B) an entity that has the authority to purchase,  
20 lease, or otherwise use or occupy property acquired by a charitable  
21 corporation having the power of eminent domain under Section 1 of  
22 this Act.

23 (5) "Predominately single-family residential  
24 subdivision or generally recognized residential area" means an area  
25 consisting predominately of single-family dwellings and associated  
26 low-density multifamily residential housing, without regard to  
27 whether the subdivision or area is governed by deed restrictions.



1           (6) "Property owners' association" means a property  
2 owners' association as defined by Section 202.001, Property Code,  
3 or described by Section 204.004, Property Code.

4           (7) "Residential litigant" means:

5           (A) a property owners' association representing  
6 a residential neighborhood affected by acts or omissions regulated  
7 under this section or a residential neighborhood bordering an  
8 affected residential neighborhood;

9           (B) a special district in which more than 50  
10 percent of the landowners reside in single-family dwellings in the  
11 district; or

12           (C) any affected residential landowner.

13           (8) "Residential neighborhood" means:

14           (A) a deed-restricted residential subdivision;

15           (B) a predominately single-family residential  
16 subdivision or generally recognized residential area; or

17           (C) a combination of those subdivisions or areas.

18           (9) "Single-family dwelling" means:

19           (A) a lot containing one building designed for  
20 and containing not more than two separate units with facilities for  
21 living, sleeping, cooking, and eating;

22           (B) a lot on which is located a freestanding  
23 building containing one dwelling unit and a detached secondary  
24 dwelling unit of not more than 900 square feet; or

25           (C) a building that contains one dwelling unit on  
26 one lot that is connected by a party wall to another building  
27 containing one dwelling unit on an adjacent lot.

1 (b) A charitable corporation subject to this Act may not:

2 (1) exercise the power of eminent domain and  
3 condemnation to acquire property in any residential neighborhood;

4 (2) otherwise acquire property in a residential  
5 neighborhood, directly or through an agent or trustee, for future  
6 use; or

7 (3) acquire residential property if the value of the  
8 property has been materially diminished by blockbusting activity.

9 (c) Within a reasonable time on or before September 1, 2010,  
10 a medical center condemning entity that, on September 1, 2009,  
11 holds any property acquired in a residential neighborhood for  
12 future use shall sell the property. Property sold under this  
13 subsection must be made subject to a deed restriction requiring the  
14 property to be restored to the property's former status as a bona  
15 fide single-family dwelling or, if applicable, reintegrated into  
16 its original deed-restricted residential subdivision.

17 (d) For the purposes of Subsections (b)(2) and (c), property  
18 is acquired for future use if the charitable corporation or a member  
19 of the corporation does not have a plan for the specific, immediate  
20 use of the property. For property acquired on or after September 1,  
21 2009, if substantial construction of permanent medical facilities  
22 designed to deliver health care for the use and benefit of the  
23 public, excluding surface parking not related to the medical  
24 facilities, has not commenced on the property before the second  
25 anniversary of the property's acquisition, the property is  
26 considered to be property acquired for future use. For property  
27 acquired before September 1, 2009, if substantial construction of

1 permanent medical facilities designed to deliver health care for  
2 the use and benefit of the public, excluding surface parking not  
3 related to the medical facilities, has not commenced on the  
4 property before September 1, 2010, the property is considered to be  
5 property acquired for future use.

6 (e) A medical center condemning entity or the entity's  
7 members may not purchase property, by private contract or  
8 otherwise, in a residential neighborhood if the property values in  
9 the neighborhood have been substantially diminished by  
10 blockbusting activity.

11 (f) A medical center condemning entity shall remediate the  
12 effects of parking facilities constructed on property owned by the  
13 entity that was acquired in a residential neighborhood after  
14 January 1, 2004, and that is located within a residential  
15 neighborhood or directly adjacent to a residential neighborhood.  
16 Remediation required by this subsection includes:

17 (1) the installation of louvers, screens, panels, or  
18 other permanent fixtures that reduce the level of light emitted  
19 from the parking garages to the same level of light emitted from the  
20 windows of offices or hospital facilities of the entity or its  
21 members that were constructed after January 1, 2004;

22 (2) landscaping with large evergreen trees and  
23 evergreen plants to mitigate, to the maximum practical extent, the  
24 adverse property value impact of the parking facilities on the  
25 adjoining residential neighborhood; and

26 (3) sound reduction measures to mitigate, to the  
27 maximum practical extent, the noise emitted from the parking

1 facilities, as well as the noise generated by mechanical systems  
2 erected in conjunction with the parking facilities, on formerly  
3 residential property.

4 (g) A medical center condemning entity may not challenge the  
5 validity of a deed restriction in a condemnation proceeding or in  
6 contemplation of condemnation.

7 (h) This section does not limit any right expressly granted  
8 in a residential deed restriction that authorizes an express  
9 waiver, amendment, or variance with respect to the restrictions, as  
10 determined by the relevant property owners' association.

11 (i) In an action under this section, a court shall:

12 (1) award litigation costs, including reasonable  
13 attorney's fees, witness fees, court costs, and other reasonable  
14 related expenses, to a residential litigant who:

15 (A) prevails in a suit seeking relief under this  
16 section, including money damages or equitable, declaratory, or  
17 other relief;

18 (B) brings an action under this section that  
19 causes or contributes to, directly or indirectly, a beneficial  
20 result to a residential neighborhood or to the public interest,  
21 notwithstanding which party may have prevailed on the merits; or

22 (C) is required to defend against claims arising  
23 out of actions or communications related to the provisions or  
24 purposes of this section; and

25 (2) periodically during the pendency of the  
26 litigation, on a showing of hardship, award interim costs of  
27 litigation to residential litigants who are claimants in the

1 action.

2 (j) An award of interim litigation costs under Subsection  
3 (i)(2) is final and not subject to repayment.

4 (k) A court may not award litigation costs against a  
5 residential litigant who asserts a claim relating to or arising  
6 under this section or engages in actions or communications related  
7 to a right created by this section.

8 (l) Except as provided by Subsection (m), in addition to any  
9 other defense or immunity conferred by law, a residential litigant  
10 is not liable for money damages or subject to injunctive or  
11 declaratory relief based on:

12 (1) a decision by the residential litigant as an agent  
13 or representative of a property owners' association or a special  
14 district; or

15 (2) a communication by the residential litigant to a  
16 governmental agency, a public official, or the public information  
17 media relating to a matter reasonably of concern to a governmental  
18 agency or public official, any other person, or the public.

19 (m) Subsection (l) does not apply if the claimant  
20 establishes by clear and convincing evidence that the decision or  
21 communication of the residential litigant was not made in good  
22 faith.

23 (n) This section shall be liberally construed to effect its  
24 purposes, which are to:

25 (1) prevent the abuse of the power of eminent domain by  
26 a charitable corporation subject to this Act;

27 (2) protect single-family residential neighborhoods;

1           (3) shield advocates of neighborhood integrity from  
2 economic coercion; and

3           (4) correct and remediate the effects of the abuse of  
4 condemnation authority used by a charitable corporation under this  
5 Act on or after January 1, 2004.

6           SECTION 34. (a) Section 552.0037, Government Code, is  
7 repealed.

8           (b) Subdivision (19), Section 374.003, and Section 374.016,  
9 Local Government Code, are repealed.

10          (c) Section 21.024, Property Code, is repealed.

11          (d) Subsection (c), Section 311.008, Tax Code, is repealed.

12          (e) Section 49.2205, Water Code, is repealed.

13          SECTION 35. Chapter 2206, Government Code, Chapters 373 and  
14 374, Local Government Code, Chapter 21, Property Code, and Chapter  
15 311, Tax Code, as amended by this Act, apply only to a condemnation  
16 proceeding in which the petition is filed on or after the effective  
17 date of this Act and to any property condemned through the  
18 proceeding. A condemnation proceeding in which the petition is  
19 filed before the effective date of this Act and any property  
20 condemned through the proceeding are governed by the law in effect  
21 immediately before that date, and that law is continued in effect  
22 for that purpose.

23          SECTION 36. The change in law made by this Act to Section  
24 202.021, Transportation Code, applies only to a sale or transfer  
25 under that section that occurs on or after the effective date of  
26 this Act. A sale or transfer before the effective date of this Act  
27 is governed by the law applicable to the sale or transfer

1 immediately before the effective date of this Act, and that law is  
2 continued in effect for that purpose.

3         SECTION 37. The changes in law made by this Act to Section  
4 54.209, Water Code, apply only to a condemnation proceeding in  
5 which the petition is filed on or after the effective date of this  
6 Act. A condemnation proceeding in which the petition is filed  
7 before the effective date of this Act is governed by the law in  
8 effect on the date the petition was filed, and that law is continued  
9 in effect for that purpose.

10         SECTION 38. This Act takes effect September 1, 2009.