

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 CONFERENCE COMMITTEE  
4 SUBSTITUTE  
5 FOR ENGROSSED  
6 HOUSE BILL NO. 2191

By: West (Kevin), Rosencrants,  
and Menz of the House

7 and

Gollihare and Bullard of  
the Senate

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11 CONFERENCE COMMITTEE SUBSTITUTE

12 An Act relating to eminent domain; defining term;  
13 prohibiting taking of private property unless for  
14 certain uses and with compensation; requiring court  
15 to strictly construe certain provisions; prohibiting  
16 expansion of eminent domain powers absent statutory  
17 authority; providing exception; amending 27 O.S.  
18 2021, Sections 5 and 17, which relate to local  
19 governments and resale of surplus property;  
20 conforming language; providing for codification; and  
21 providing an effective date.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. NEW LAW A new section of law to be codified  
24 in the Oklahoma Statutes as Section 41 of Title 27, unless there is  
created a duplication in numbering, reads as follows:

A. As used in this act, "public use" means:

1        1. The possession, occupation, ownership, and enjoyment of the  
2 land by the general public, or by a government entity for use as a  
3 public highway, road, easement or a right-of-way, public building,  
4 public cemetery, public park, or other uses authorized in Section 5  
5 of Title 27 of the Oklahoma Statutes;

6        2. The possession, occupation, and ownership of land for  
7 operations of a public utility or private entity authorized by  
8 statute that serves the general public;

9        3. The remediation of a blighted property; or

10       4. The possession of an abandoned property.

11       B. Private property may not be taken or damaged by a condemning  
12 authority unless the taking or damage is necessary for a public use  
13 and with just compensation. The public purpose or public benefit of  
14 economic development, including an increase in tax base, tax  
15 revenues, employment, or general economic health, alone does not  
16 constitute a public use.

17       C. Nothing in subsection B of this section shall be construed  
18 to prohibit a taking of private property for public use as defined  
19 in subsection A of this section because the public use also provides  
20 ancillary economic benefits.

21       D. A governmental body subordinate to the state may not  
22 exercise, create, extend, or expand a power of eminent domain in the  
23 absence of statutory authority. Additional procedures, remedies, or  
24 limitations that do not deny or diminish the substantive and

1 procedural rights and protections of property owners under this  
2 section may be provided by other law, ordinance, or charter.

3 E. Nothing in this section shall be construed to apply to the  
4 abatement of any public nuisance authorized under state law.

5 F. The actions and determinations of the condemnation are  
6 subject to judicial review in a court proceeding.

7 SECTION 2. AMENDATORY 27 O.S. 2021, Section 5, is  
8 amended to read as follows:

9 Section 5. Any county, city, town, township, school district,  
10 or board of education, or any board or official having charge of  
11 cemeteries created and existing under the laws of this state, shall  
12 have power to condemn lands in like manner as railroad companies,  
13 for highways, rights-of-way, building sites, cemeteries, public  
14 parks and other public ~~purposes~~ uses.

15 SECTION 3. AMENDATORY 27 O.S. 2021, Section 17, is  
16 amended to read as follows:

17 Section 17. A. In the event that a portion of the total amount  
18 of real property taken by eminent domain under the procedures set  
19 forth in ~~Title 27 of the Oklahoma Statutes~~ this title for a public  
20 ~~purpose~~ use as described in Section 9 of ~~Title 27 of the Oklahoma~~  
21 ~~Statutes~~ this title is not used for the ~~purposes~~ uses for which it  
22 was condemned or for another public use by the agency or other  
23 entity which acquired the real property, the portion of the real  
24 property that is not used shall be declared surplus and shall be

1 first offered for resale to the person from whom the property was  
2 taken or the heirs of the person at the appraised value or the  
3 original price at which the acquiring agency or entity purchased  
4 that portion of the property, whichever is less.

5 B. For purposes of complying with subsection A of this section,  
6 the agency or entity which acquired the real property by  
7 condemnation shall notify the former landowner of the right of first  
8 refusal by sending notice by certified mail, return receipt  
9 requested, to the last-known address of the person as provided by  
10 the person. If the mail is returned as not subject to delivery or  
11 the former landowner is deceased, notice of the right of first  
12 refusal shall be provided by publication in a newspaper of general  
13 circulation in the community where the real property is located.  
14 The notice shall contain the name of the former landowner and a  
15 legal description of the surplus property. If the offer to  
16 repurchase is not accepted within ninety (90) days from the date of  
17 notice or if the offer to repurchase is not accepted from the date  
18 the resale price on the property is determined, the property may  
19 then be sold at public sale.

20 C. This section shall not apply to conveyances for  
21 redevelopment under Sections 38-101 through 38-123 of Title 11 of  
22 the Oklahoma Statutes.  
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SECTION 4. This act shall become effective November 1, 2024.

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