



2005-2006 Eminent Domain Enacted Legislation Tracking Sheet

In addition to the enacted legislation listed below, the following eminent domain-related bills await gubernatorial approval: Alabama HB 654, Florida HB 1567 and 1569, Illinois SB 3086, Iowa HF 2351, and Missouri HB 1944.

State	Session	Bill #	Summary	Status
AL	2005 Special Session	SB 68	<p>This bill prohibits condemning property for private retail, office, commercial, industrial, or residential development, or primarily to enhance tax revenue, or for the transfer of private property to another private party, except on a finding of blight in an area covered by a redevelopment or urban renewal plan.</p> <p>http://alisd.b.l.e.g.i.s.l.a.t.u.r.e.s.t.a.t.e.a.l.u.s/a.c.a.s/a.c.a.s.l.o.g.i.n.a.s.p?S.E.S.S.I.O.N.=1032</p>	08/03/2005: Signed by GOVERNOR.
DE	2005	SB 217	<p>This bill requires that eminent domain be exercised only for a "recognized public use" (undefined) as described at least six months in advance of the condemnation proceedings in a certified planning document, at a public hearing held specifically to address the acquisition, or in a published report of the acquiring agency.</p> <p>http://www.legis.state.de.us/LIS/LIS143.NSF/vwLegislation/SB+217?Opendocument</p>	07/21/2005: Signed by GOVERNOR.
GA	Jan 9 – Apr 7	HB 1313	<p>This bill: (1) redefines "blighted property" as any urbanized or developed property that presents two or more of the following conditions: (a) uninhabitable, unsafe, or abandoned structures; (b) inadequate provisions for ventilation, light, air, or sanitation; (c) an imminent harm to life or other property caused by fire, flood, hurricane, tornado, earthquake, storm, or other natural catastrophe respecting which the Governor has declared a state of emergency under state law or has certified the need for disaster assistance under federal law, provided, however, that no property owner who has taken positive steps within one year of the natural catastrophe to protect his or her property in such circumstances be subject to condemnation; (d) a site identified by the federal Environmental Protection Agency as a Superfund or environmental contamination to an extent that requires remedial investigation or a feasibility study; (e) repeated illegal use of individual properties; or (f) the maintenance of the property is below state, county, or municipal codes for at least one year after notice of the code violation and is conducive to ill health, transmission of disease, infant mortality, or crime in the immediate proximity of the property; (2) requires those conditions to be</p>	04/04/2006: Signed by GOVERNOR.

		<p>shown by studies, including but not limited to, government maintained statistics and would provide that property cannot be deemed blighted solely because of esthetic conditions; (3) defines "public use" as (a) the possession, occupation, and enjoyment of the land by the general public or by state or local governmental entities; (b) the use of land for the creation or functioning of public utilities; (c) the opening of roads, the construction of defenses, or the providing of channels of trade or travel; (d) the acquisition of property where title is clouded due to the inability to identify or locate all owners of the property or in such situations and where unanimous consent is received from each person with a legal claim that has been identified and found; or (e) the remedy of blight; (4) provides that the public benefit of economic development does not constitute a public use; (5) requires the governing authority of a city or county to approve a resolution authorizing the exercise of the power of eminent domain; and (6) requires the governing authority to post notice of the meeting where the approval vote will occur.</p> <p>http://www.legis.state.ga.us/legis/2005_06/sum/hb1313.htm</p> <p>HR 1306 This bill proposes a constitutional amendment that would require local governing bodies to approve any exercise of eminent domain for the condemnation of private property for redevelopment purposes. The amendment would prohibit nonelected housing or development authorities from taking property without a governing body's approval.</p> <p>The amendment will be on the November 2006 ballot. If a majority of the voters ratify the amendment, it will become a part of the Constitution.</p> <p>http://www.legis.state.ga.us/legis/2005_06/fulltext/hr1306.htm</p>	<p>04/04/2006: Signed by GOVERNOR.</p>
ID	Jan 9 – Mar 17	<p>HB 555 This bill prohibits the exercise of eminent domain to acquire private property for any alleged public use that is merely a pretext for the transfer of the condemned property or any interest in that property to a private party or for promoting or effectuating economic development except in takings cases involving:</p> <p>(1) port districts and waterways; or (2) housing authorities, urban renewal projects, and local economic development projects only when the specific property to be condemned is proven by clear and convincing evidence to be in such condition that it meets all of the requirements: (a) the property, due to general dilapidation, compromised structural integrity, or failed mechanical systems, endangers life or endangers property by fire or by other perils that pose an actual identifiable threat to building occupants, and</p>	<p>03/21/2006: Signed by GOVERNOR.</p>

			<p>(b) the property contains specifically identifiable conditions that pose an actual risk to human health, transmission of disease, juvenile delinquency, or criminal content, and</p> <p>(c) the property presents an actual risk of harm to the public health, safety, morals, or general welfare; or</p> <p>(3) those public and private uses expressly provided for in the state constitution.</p> <p>http://www3.state.id.us/oasis/H0555.html</p>	
IN	Jan 10 – Mar 17	HB 1010	<p>This bill: (1) requires a person seeking to exercise eminent domain to establish a proposed purchase price for the property, provide the owner with evidence used to establish that price, and conduct good faith negotiations with the proper owner; (2) increases the time a property owner can accept or reject an acquisition from 25 to 30 days; (3) requires a person who submits a written acquisition offer seeking to take property by eminent domain to file a complaint under the eminent domain statute within two years of submitting the offer; (4) requires a public utility and a pipeline company that submits a written acquisition offer seeking to take property by eminent domain and has that offer rejected by the owner, to file a complaint under the eminent domain statute within six years of submitting the offer; (5) requires the court in an eminent domain proceeding to appoint one disinterested freeholder and two state residents who are licensed appraisers, one of whom must live within 50 miles of the property being taken, to assess benefits and damages that the property owner will sustain; (6) allows a plaintiff in an eminent domain proceeding to offer a settlement to the defendant property owner no later than 30 days before trial; (7) increases the time allowed for a person seeking to take property to adapt that property for the purpose for which it was acquired from five years to six years before the that person forfeits all rights in the property; (8) prohibits a private utility that holds a territorial authority certificate to provide sewage disposal and provides sewage disposal services to less than 500 customers from exercising eminent domain to take land; (9) requires, if applicable, the owner in an eminent domain court case to be reimbursed for “reasonable” attorneys’ fees not to exceed \$25,000 or the fair market value of the defendant’s easement or property; (10) defines “public use” when ownership or control of property is being transferred between private persons as “(1) possession, occupation, and enjoyment of a parcel of real property by the general public or a public agency for the purpose of providing the general public with fundamental services, including the construction, maintenance, and reconstruction of highways, bridges, airports, ports, intermodal facilities, parks, and publicly owned venues; (2) leasing of a highway, bridge, airport, port, intermodal facility, park, or publicly owned venue by a public agency that retains ownership of the parcel by written lease with right of forfeiture; or (3) use of a parcel of real property to create or operate a public utility, an energy utility (as defined in IC 8-1-2.5-2), or a pipeline company”; (11) provides that</p>	03/24/2006: Signed by GOVERNOR.

		<p>“public use” does not include “the public benefit of economic development, including an increase in a tax base, tax revenues, employment, or general economic health”; (12) defines a “condemnor” as a “person authorized to exercise the power of eminent domain; (13) allows a condemnor to take property by eminent domain if all of the following conditions are met:</p> <p>(a) At least one of the following conditions exist:</p> <ul style="list-style-type: none"> (i) the parcel contains a structure that because of physical condition, use, or occupancy constitutes a public nuisance; (ii) the parcel contains a structure that is unfit for human habitation or use because the structure is dilapidated, unsanitary, unsafe, vermin infested, or does not contain facilities required by applicable codes; (iii) the parcel contains a structure that is a fire hazard or otherwise dangerous to the safety of persons or property; (iv) the parcel contains a structure not fit for intended use because the utilities, sewerage, plumbing, heating, or any other similar service have been disconnected or rendered ineffective; (v) the parcel is located in a substantially developed neighborhood and is vacant or unimproved and because of neglect is a place that accumulates trash, garbage, vermin, and the owner has not corrected the neglect in a reasonable period after being notified; (vi) the parcel is subject to tax delinquencies that exceed assessed value; (vii) the parcel poses a threat to health and safety because of environmental contamination; (viii) the parcel has been abandoned, and <p>(b) the acquisition of the parcel through eminent domain is expected to accomplish more than only increasing property tax base, and</p> <p>(c) the condemnor participates in good faith in mediation with the property owner, which must be concluded within 90 days of a mediator being appointed by the court;</p> <p>(14) provides that judicial review can determine whether the above conditions are met; (15) requires a condemnor to compensate an owner of agricultural land by paying the owner 125 percent of the property’s fair market value (FMV) or on the owner’s request or transferring interest in agricultural land that is the same acreage of the land acquired by eminent domain, and paying other damages, including trade or business loses related to the exercise of eminent domain, and relocation costs; (16) requires a condemnor to compensate an owner who lives on the property by paying 150 percent of the FMV, and paying other damages, including trade or business loses related to the exercise of eminent domain, and relocation costs; (17) requires a condemnor to</p>	
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KY	Jan 3 – Apr 11	HB 508	<p>This bill allows eminent domain to be used only for a “public use.” The bill defines “public use” as: (1) ownership of the property by the Commonwealth, a political subdivision of the Commonwealth, or other governmental entity; (2) the possession, occupation, or enjoyment of the property as a matter of right by the Commonwealth, a political subdivision of the Commonwealth, or other governmental entity; (3) the acquisition and transfer of property for the purpose of eliminating blighted areas, slum areas, or substandard and unsanitary areas in accordance with KRS Chapter 99; (4) the use of the property for the creation or operation of public utilities or common carriers; or (5) other use of the property expressly authorized by statute.</p> <p>The bill also prohibits the condemnation of property to transfer the property to a private owner for the purpose of economic development that benefits the general public only indirectly, such as by increasing the tax base, tax revenues, employment, or by promoting the general economic health of the community. The bill expressly allows the sale or lease of property to private entities that occupy an incidental area within a public project or building, provided that no property may be condemned primarily for the purpose of facilitating an incidental private use.</p> <p>It also allows eminent domain for the acquisition of property financed by state road funds or federal highway funds.</p> <p>http://www.lrc.ky.gov/RECORD/06RS/HB508.htm</p>	03/28/2006: Signed by GOVERNOR.
ME	Jan 4 – Apr 19	LD 1870	<p>This bill prohibits the use of eminent domain to condemn land used for agriculture, fishing, or forestry, or land improved with residential, commercial, or industrial buildings, for: (1) private retail, office, commercial, industrial, or residential purposes; (2) primarily to generate additional tax revenue; or (3) to transfer private property to an individual or a for-profit business. The bill contains a blight exception.</p> <p>http://janus.state.me.us/legis/LawMakerWeb/externalsiteframe.asp?ID=280019894&LD=1870&Type=1&SessionID=6</p>	04/13/2006: Signed by GOVERNOR.

MI	2005	SJR E	<p>This joint resolution proposes a state constitutional amendment to provide that "a taking of private property is not considered to be for public use if the property is transferred to a private entity or entities for the primary benefit of the private entity or entities." The amendment also provides that if private property consisting of an individual's principal residence is taken for public use, the amount of compensation made and determined for that taking shall be not less than 125% of that property's fair market value, in addition to any other reimbursement allowed by law.</p> <p>This amendment will be on the November ballot. A majority of voters need to approve this amendment for it to become part of the constitution.</p> <p>http://www.legislature.mi.gov/(4wenqirivrd3w155zevse045)/mileg.aspx?page=getObject&objectName=2005-SJR-E</p>	12/29/2005: Filed with the SECRETARY OF STATE.
NE	Jan 4 – Apr 18	LB 924	<p>This bill prohibits the use of eminent domain primarily for economic development purposes, which is defined to mean use by a commercial entity or to increase tax revenue, the tax base, employment, or general economic conditions.</p> <p>The bill does not affect the use of eminent domain for: (a) public projects or private projects that make all or a major portion of the property available for use by the general public or for use as a right-of-way, aqueduct, pipeline, or similar use; (b) removing harmful uses of property if such uses constitute an immediate threat to public health and safety; (c) leasing property to a private person who occupies an incidental part of public property or a public facility, such as a retail establishment on the ground floor of a public building; (d) acquiring abandoned property; (e) clearing defective property title; (f) taking private property for use by a utility or railroad; and (g) taking private property based upon a finding of blighted or substandard conditions under the Community Development Law if the private property is not agricultural land or horticultural land as defined by law.</p> <p>http://www.unicam.state.ne.us/legal/SLIP_LB924.pdf</p>	04/13/2006: Signed by GOVERNOR.
NH	Jan 4 – June 30	CACR 30	<p>This resolution proposes a constitutional amendment prohibiting private property from being seized through eminent domain if the taking is for a private use.</p> <p>This bill goes to the voters in November. 2/3 of qualified voters must approve the amendment for it to become part of the constitution.</p>	04/20/2006: Passed SENATE.

			http://gencourt.state.nh.us/legislation/2006/CACR0030.html	
NM	Jan 17 – Feb 16	HB 746	This bill would have prohibited state or local public bodies from condemning private property if the taking is to promote private or commercial development and title to the property is transferred to another private entity within five years following the condemnation. http://legis.state.nm.us/Sessions/06%20Regular/final/HB0746.pdf	03/07/2006: Vetoed by GOVERNOR.
OH	2005	SB 167	This bill establishes a moratorium, until December 31, 2006, on the use of eminent domain to take unblighted private property when the sole or primary purpose for the taking is economic development resulting in private ownership. Additionally, the bill creates a legislative task force to study eminent domain and land use planning. http://www.legislature.state.oh.us/bills.cfm?ID=126_SB_167	11/16/2005: Signed by GOVERNOR.
PA	Jan 3 – Nov 30	HB 2054	This bill outlines the proceedings and process for taking property through eminent domain. This bill defines “just compensation” as consisting of the difference between the fair market value of the condemnee's entire property interest immediately before the condemnation and as unaffected by the condemnation and the fair market value of the property interest remaining immediately after the condemnation and as affected by the condemnation. http://www2.legis.state.pa.us/WU01/LI/BI/BT/2005/0/HB2054P3848.pdf	05/04/2006: Signed by GOVERNOR.
		SB 881	This bill limits, in most cases, the transfer of private property through eminent domain to private entities, other than public utilities, railroads, and common carriers. http://www2.legis.state.pa.us/WU01/LI/BI/BT/2005/0/SB0881P1738.pdf	05/04/2006: Signed by GOVERNOR.
SD	Jan 10 – Mar 13	HB 1080	This bill prohibits local governments from taking private property for transfer to any private person, nongovernmental entity, or other public-private business entity or primarily to enhance tax revenue. The bill provides that no local government can transfer any fee interest in property acquired by the use or threat of eminent domain	02/17/2006: Signed by GOVERNOR.

			<p>within seven years of acquisition to any private person, nongovernmental entity, or public-private business entity without first offering to sell that fee interest back to the person who originally owned the property or such person's heirs or assigns, at current fair market value.</p> <p>http://legis.state.sd.us/sessions/2006/bills/HB1080enr.htm</p>	
TX	2005 2 nd Special Session	SB 7	<p>This bill prohibits the use of eminent domain if: (1) that exercise confers a private benefit on a particular private party; (2) is for a public use that is merely a pretext to confer a private benefit on a particular private party; or (3) is for economic development purposes, except in cases that seek to eliminate blight. The bill does include exceptions for public works programs and common carriers.</p> <p>http://www.capitol.state.tx.us/cgi-bin/tlo/textframe.cmd?LEG=79&SESS=2&CHAMBER=S&BILLTYPE=B&BILLSUFFIX=00007&VERSION=5&TYPE=B</p>	09/01/2005: Signed by GOVERNOR.
UT	Jan 16 – Mar 1	SB 117	<p>This bill: (1) expands the public uses for which eminent domain may be used to include bicycle paths and sidewalks to paved roads; (2) prohibits local governments from taking trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other property used for recreation; (3) requires municipal or county governing body approval before property can be taken by a political subdivision of the state; (4) before any final vote to file an eminent domain action, requires the governing body to provide written notice to each property owner of every public meeting of the governing body at which a vote on the proposed taking will occur.</p> <p>http://www.le.state.ut.us/~2006/bills/sbillenr/sb0117.pdf</p>	03/22/2006: Signed by GOVERNOR.
VA	Jan 11 – Mar 11	HB 699	<p>This bill: (1) defines “blighted area” as any area that endangers the public health, safety, or welfare, or any area that is detrimental to the public health, safety, or welfare because commercial, industrial, or residential structures or improvements are dilapidated, or deteriorated or because such structures or improvements violate minimum health and safety standards, including areas previously designated as blighted areas; (2) defines “blighted property” as any individual commercial, industrial, or residential structure or improvement that endangers the public’s health, safety, or welfare because the structure or improvement upon the property is dilapidated, deteriorated, or violates minimum health and safety standards, or any structure or improvement previously designated as blighted; (3) defines “slum” as any area where</p>	04/06/2006: Signed by GOVERNOR.

			<p>dwelling predominate that, by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities, or any combination of these factors, is detrimental to safety, health, or morals; (4) provides that a redevelopment authority has the right to acquire by the exercise of the power of eminent domain any real property pursuant to a duly adopted redevelopment or conservation plan, or otherwise only in accordance with this chapter, after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such "public" purposes; (5) provides that no redevelopment or conservation plan is effective until notice has been sent to the property owner or owners of record and the redevelopment plan has been approved by the local governing body; (6) prohibits a locality from creating conservation or redevelopment areas, except through a redevelopment and housing authority and only in accordance with these provisions; and (7) provides that it is a public purpose to provide public facilities including, but not limited to, roads, water, sewers, parks, and real estate devoted to open-space use within redevelopment and conservation areas to encourage the private development in such areas in order to eliminate blighted conditions.</p> <p>http://leg1.state.va.us/cgi-bin/legp504.exe?061+ful+HB699ER</p>	
VT	Jan 3 – May 18	SB 246	<p>This bill prohibits the exercise of eminent domain to take private property if the taking is primarily for economic development purposes, unless the property is taken pursuant to an urban renewal plan. The bill does provide exceptions to this prohibition provision, including taking property for transportation projects, public utilities, public property, buildings, hospitals, parks, water, wastewater, storm water, flood control, drainage, or waste disposal projects.</p> <p>The bill also provides that no area shall be determined to be a blighted area solely or primarily because its condition and value for tax purposes are less than the condition and value projected as the result of the implementation of any state, municipal, or private redevelopment plan.</p> <p>http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2006/acts/ACT111.HTM</p>	04/14/2006: Signed by GOVERNOR.
WI	Jan 10 – May 18	AB 657	<p>This bill: (1) defines "blighted property" as any property that "by reason of abandonment, dilapidation, deterioration, age or obsolescence, inadequate provisions for ventilation, light, air, or sanitation, high density of population and overcrowding, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, or the existence of conditions that endanger life or property by</p>	03/30/2006: Signed by GOVERNOR.

			<p>fire or other causes, or any combination of such factors, is detrimental to the public health, safety, or welfare”; (2) provides that multifamily housing is not blighted unless, in addition to the above, the property is abandoned, or converted from a single family dwelling to multiple dwelling units and the crime rate in, on, or adjacent to the property is higher than in the remainder of the municipality in which the property is located; (3) prohibits non-blighted property from being taken if the condemnor intends to convey or lease the property to a private entity; and (4) requires the condemnor, before initiating a takings action, to make a written finding that the property is blighted property.</p> <p>http://www.legis.state.wi.us/2005/data/AB-657.pdf</p>	
WV	Jan 11 – Mar 13	HB 4048	<p>This bill: (1) redefines “blighted area” to mean “an area, other than a slum area, which by reason of the predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site improvement, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of the community, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use”; (2) requires a municipal authority to show that property to be taken is blighted; (3) provides that if property around the blighted or slum area is not blighted, the municipal authority must demonstrate that the project:</p> <p>(a) cannot proceed without the condemnation of the non-blighted property at issue;</p> <p>(b) that the non-blighted property cannot be integrated into the proposed project or once the slum and blighted area surrounding the property is taken and cleared;</p> <p>(c) that the condemnation of the non-blighted property is necessary for the clearance of an area deemed to be slum or blighted;</p> <p>(d) that other alternatives to the condemnation of the property are not reasonably practical;</p> <p>(e) that every reasonable effort has been taken to ensure that the property and its owners have been given a reasonable opportunity to be included in the redevelopment project without the use of eminent domain;</p> <p>(f) that no alternative site within the slum and blighted area is available for purchase by negotiation that might substitute as a site for the non-blighted property;</p> <p>(g) that the redevelopment project could not be restructured to avoid the taking of the non-blighted property;</p> <p>(h) that the redevelopment project could not be carried out without the use of eminent</p>	04/05/2006: Signed by GOVERNOR.

		<p>domain; and</p> <p>(i) that there is specific use for the non-blighted property to be taken and a plan to redevelop and convert the property from its current use to the stated specific use basically exists;</p> <p>(4) allows the property owner of a non-blighted property to seek circuit court review of the above elements; (5) allows a business owner whose non-blighted property is taken to be reimbursed for the reasonable costs of obtaining a comparable building or property; (6) requires an applicant seeking to exercise eminent domain to make a reasonable attempt to notify all parties subject to the condemnation petition and attempt to enter into negotiations to purchase the property; and (7) requires the applicant to make a good faith offer to the owners prior to initiating condemnation proceedings.</p> <p>http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4048%20enr.htm</p>	
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