



General Assembly

January Session, 2007

Raised Bill No. 1446

LCO No. 5918

05918 _____ JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

**AN ACT CONCERNING THE USE OF EMINENT DOMAIN FOR
ECONOMIC DEVELOPMENT PURPOSES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 8-193 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) After approval of the development plan as provided in this
4 chapter, the development agency may proceed by purchase, lease,
5 exchange or gift with the acquisition or rental of real property within
6 the project area and real property and interests therein for rights-of-
7 way and other easements to and from the project area. The
8 development agency may, with the approval of the legislative body,
9 and in the name of the municipality, acquire by eminent domain real
10 property located within the project area and real property and interests
11 therein for rights-of-way and other easements to and from the project
12 area, in the same manner that a redevelopment agency may acquire
13 real property under sections 8-128 to 8-133, inclusive, as if said sections
14 specifically applied to development agencies, except that the
15 development agency may not acquire owner-occupied residential real
16 property consisting of four or fewer dwelling units by eminent domain

17 if the development project will be under the sole ownership or control
18 of a private enterprise. The development agency may, with the
19 approval of the legislative body and, of the commissioner if any grants
20 were made by the state under section 8-190 or 8-195 for such
21 development project, and in the name of such municipality, transfer by
22 sale or lease at fair market value or fair rental value, as the case may
23 be, the whole or any part of the real property in the project area to any
24 person, in accordance with the project plan and such disposition plans
25 as may have been determined by the commissioner, except that
26 residential real property acquired by eminent domain that consisted of
27 four or fewer dwelling units at the time of acquisition may not be
28 transferred by sale until it is first offered for sale to the person from
29 whom the property was acquired, or the person's known or
30 ascertainable heirs, successors or assigns, for a price not greater than
31 the amount paid to acquire the property, less the value of any
32 structures or improvements removed from the property by the
33 development agency or its designee after the real property was
34 acquired.

35 (b) A development agency shall have all the powers necessary or
36 convenient to undertake and carry out development plans and
37 development projects, including the power to clear, demolish, repair,
38 rehabilitate, operate, or insure real property while it is in its
39 possession, to make site improvements essential to the preparation of
40 land for its use in accordance with the development plan, to install,
41 construct or reconstruct streets, utilities and other improvements
42 necessary for carrying out the objectives of the development project,
43 and, in distressed municipalities, as defined in section 32-9p, to lend
44 funds to businesses and industries in a manner approved by the
45 commissioner.

46 Sec. 2. Section 8-200 of the general statutes is repealed and the
47 following is substituted in lieu thereof (*Effective October 1, 2007*):

48 (a) A development plan may be modified at any time by the

49 development agency, provided, if modified after the lease or sale of
50 real property in the development project area, the modification must
51 be consented to by the lessees or purchasers of such real property or
52 their successor or successors in interest affected by the proposed
53 modification. Where the proposed modification will substantially
54 change the development plan as previously approved, the
55 modification must be approved in the same manner as the
56 development plan.

57 (b) If after three years from the date of approval of the development
58 plan the development agency has been unable to transfer by sale or
59 lease at fair market value or fair rental value, as the case may be, the
60 whole or any part of the real property acquired in the project area to
61 any person in accordance with the project plan, and no grant has been
62 made for such project pursuant to section 8-195, the municipality may,
63 by vote of its legislative body, abandon the project plan and such real
64 property may be conveyed free of any restriction, obligation or
65 procedure imposed by the plan but shall be subject to all other local
66 and state laws, ordinances or regulations, including, but not limited to,
67 any offer of sale required under subsection (a) of section 8-193, as
68 amended by this act.

69 Sec. 3. Section 8-128 of the general statutes is repealed and the
70 following is substituted in lieu thereof (*Effective October 1, 2007*):

71 (a) Within a reasonable time after its approval of the redevelopment
72 plan as [hereinbefore] provided in section 8-127, the redevelopment
73 agency may proceed with the acquisition or rental of real property by
74 purchase, lease, exchange or gift. The redevelopment agency may
75 acquire real property by eminent domain with the approval of the
76 legislative body of the municipality and in accordance with the
77 provisions of sections 8-129 to 8-133, inclusive, and this section, except
78 that the redevelopment agency may not acquire owner-occupied
79 residential real property consisting of four or fewer dwelling units by
80 eminent domain if the redevelopment project will be under the sole

81 ownership or control of a private enterprise. The legislative body in its
82 approval of a project under section 8-127 shall specify the time within
83 which real property is to be acquired. The time for acquisition may be
84 extended by the legislative body in accordance with section 48-6, upon
85 request of the redevelopment agency, provided the owner of the real
86 property consents to such request. Real property may be acquired
87 previous to the adoption or approval of the project area redevelopment
88 plan, provided the property acquired shall be located within an area
89 designated on the general plan as an appropriate redevelopment area
90 or within an area whose boundaries are defined by the planning
91 commission as an appropriate area for a redevelopment project, and
92 provided such acquisition shall be authorized by the legislative body.
93 The redevelopment agency may clear, repair, operate or insure such
94 property while it is in its possession or make site improvements
95 essential to preparation for its use in accordance with the
96 redevelopment plan.

97 (b) Any residential real property acquired by eminent domain that
98 consisted of four or fewer dwelling units at the time of acquisition may
99 not be transferred by sale until it is first offered for sale to the person
100 from whom the property was acquired, or the person's known or
101 ascertainable heirs, successors or assigns, for a price not greater than
102 the amount paid to acquire the property, less the value of any
103 structures or improvements removed from the property by the
104 redevelopment agency or its designee after the real property was
105 acquired.

106 Sec. 4. Section 32-224 of the general statutes is repealed and the
107 following is substituted in lieu thereof (*Effective October 1, 2007*):

108 (a) Any municipality which has a planning commission may, by
109 vote of its legislative body, designate an implementing agency to
110 exercise the powers granted under sections 32-220 to 32-234, inclusive.
111 Any municipality may, with the approval of the commissioner,
112 designate a separate implementing agency for each municipal

113 development project undertaken by such municipality pursuant to
114 said sections.

115 (b) The implementing agency may initiate a municipal development
116 project by preparing and submitting a development plan to the
117 commissioner. Such plan shall include: (1) A legal description of the
118 real property within the boundaries of the project area; (2) a
119 description of the present condition and uses of such real property; (3)
120 a description of the types and locations of land uses or building uses
121 proposed for the project area; (4) a description of the types and
122 locations of present and proposed streets, sidewalks and sanitary,
123 utility and other facilities and the types and locations of other
124 proposed project improvements; (5) statements of the present and
125 proposed zoning classification and subdivision status of the project
126 area and the areas adjacent to the project area; (6) a plan for relocating
127 project area occupants; (7) a financing plan; (8) an administrative plan;
128 (9) an environmental analysis, marketability and proposed land use
129 study, or building use study if required by the commissioner; (10)
130 appraisal reports and title searches if required by the commissioner;
131 (11) a description of the economic benefit of the project, including the
132 number of jobs which the implementing agency anticipates would be
133 created or retained by the project, estimated property tax benefits and
134 the number and types of existing housing units in the municipality in
135 which the project would be located, and in contiguous municipalities,
136 which would be available to employees filling such jobs and (12) a
137 finding that (A) the land and buildings within the boundaries of the
138 project area will be used principally for manufacturing or other
139 economic base business purposes or business support services; (B) the
140 plan is in accordance with the plan of development for the
141 municipality, if any, adopted by its planning commission and the plan
142 of development of the regional planning agency, if any, for the region
143 within which the municipality is located; (C) the plan is not inimical to
144 any state-wide planning program objectives of the state or state
145 agencies as coordinated by the Secretary of the Office of Policy and
146 Management; and (D) the project will contribute to the economic

147 welfare of the municipality and the state and that to carry out and
148 administer the project, public action under sections 32-220 to 32-234,
149 inclusive, is required. The provisions of this subsection with respect to
150 submission of a development plan to and approval by the
151 commissioner and with respect to a finding that the plan is not
152 inimical to any state-wide planning program objectives of the state or
153 its agencies shall not apply to a project for which no financial
154 assistance has been given and no application for financial assistance is
155 to be made under section 32-223. Any plan which has been prepared
156 under chapters 130, 132 or 588a may be submitted by the
157 implementing agency to the legislative body of the municipality and to
158 the commissioner in lieu of a plan initiated and prepared in accordance
159 with this section, provided all other requirements of sections 32-220 to
160 32-234, inclusive, for obtaining the approval of the commissioner of the
161 development plan are satisfied. Any action taken in connection with
162 the preparation and adoption of such plan shall be deemed effective to
163 the extent such action satisfies the requirements of said sections.

164 (c) No plan shall be adopted unless the planning commission of the
165 municipality finds that the plan is in accord with the plan of
166 development, if any, for the municipality and the regional planning
167 agency, if any, organized under chapter 127 for the region within
168 which such municipality is located finds that such plan is in accord
169 with the plan of development, if any, for such region. If the regional
170 planning agency fails to make a finding concerning the plan within
171 thirty-five days of receipt thereof, by such agency, it shall be presumed
172 that such agency does not disapprove of the plan. The implementing
173 agency shall hold at least one public hearing on the plan and shall
174 cause notice of the time, place, and subject of any public hearing to be
175 published at least once in a newspaper of general circulation in the
176 municipality not less than one week nor more than three weeks prior
177 to the date of such public hearing. Upon adoption the implementing
178 agency shall submit the plan to the legislative body of the municipality
179 for approval or disapproval. Any approval by the implementing
180 agency and legislative body of the municipality made under this

181 section shall specifically provide for approval of any findings
182 contained therein. After approval of the plan by the legislative body of
183 the municipality, such plan shall be submitted to the commissioner for
184 his approval. If the commissioner requires a substantial modification
185 of the plan as a condition of approval, the plan shall be subject to a
186 public hearing and approval by the implementing agency and the
187 legislative body of the municipality in accordance with the provisions
188 of this subsection.

189 (d) A development plan may be modified at any time by the
190 implementing agency, provided, if modified after the lease or sale of
191 real property in the project area, the lessees or purchasers of such real
192 property or their successor or successors in interest affected by the
193 proposed modification shall consent to such modification. If the
194 proposed modification will substantially alter the development plan as
195 previously approved, the modification shall be subject to the approval
196 of the local legislative body of the municipality and the commissioner
197 in the same manner as approval of the development plan. The
198 municipality may, by vote of its legislative body, abandon the
199 development plan and convey such real property within the
200 boundaries of the project area free of any restriction, obligation or
201 procedure imposed by the plan subject to all other local and state laws,
202 ordinances or regulations if after three years from the date of approval
203 of the plan the implementing agency has not transferred by sale or
204 lease all or any part of the real property acquired in the project area to
205 any person in accordance with the development plan and no grant of
206 financial assistance under sections 32-220 to 32-234, inclusive, has been
207 given for such project other than for activities related to the planning
208 of the project pursuant to section 32-222. Notwithstanding any
209 provision of this section, no residential real property condemned
210 pursuant to this section that consisted of four or fewer dwelling units
211 at the time of condemnation may be transferred by sale until it is first
212 offered for sale to the person whose property was condemned, or the
213 person's known or ascertainable heirs, successors or assigns, for a price
214 not greater than the amount paid to condemn the property, less the

215 value of any structures or improvements removed from the property
216 by the implementing agency or its designee after the real property was
217 condemned.

218 (e) The implementing agencies of two or more municipalities may,
219 after approval by each legislative body thereof, jointly initiate a
220 development project if the project area is to be located in one or more
221 of such municipalities. Such implementing agencies, after approval by
222 the commissioner of the development plan for the project if any state
223 aid is to be requested under section 32-223, may enter into and amend
224 subject to the approval of the commissioner, an agreement to jointly
225 carry out the development plan. Such agreement may include
226 provisions for furnishing municipal services to the project and sharing
227 costs of and revenues from the project, including property tax and
228 rental receipts. The development plan shall include a proposed form of
229 the agreement to be entered into by the municipalities. Each
230 municipality which is a party to an agreement may make
231 appropriations and levy taxes in accordance with the provisions of the
232 general statutes and may issue bonds in accordance with section 32-
233 227 to further its obligations under the agreement.

234 (f) As used in this subsection, "public service facility" includes any
235 sewer, pipe, main conduit, cable, wire, pole, tower, building or utility
236 appliance owned or operated by an electric, gas, telephone, telegraph
237 or water company. Whenever an implementing agency determines
238 that the closing of any street or public right-of-way is provided for in a
239 development plan adopted and approved in accordance with sections
240 32-220 to 32-234, inclusive, or where the carrying out of such a
241 development plan, including the construction of new improvements,
242 requires the temporary or permanent readjustment, relocation or
243 removal of a public service facility from a street or public right-of-way,
244 the implementing agency shall issue an appropriate order to the
245 company owning or operating such facility. Such company shall
246 permanently or temporarily readjust, relocate or remove the public
247 service facility promptly in accordance with such order, provided an

248 equitable share of the cost of such readjustment, relocation or removal,
249 including the cost of installing and constructing a facility of equal
250 capacity in a new location, shall be borne by the implementing agency.
251 Such equitable share shall be fifty per cent of such cost after the
252 deduction hereinafter provided. In establishing the equitable share of
253 the cost to be borne by the implementing agency, there shall be
254 deducted from the cost of the readjusted, relocated or removed
255 facilities a sum based on a consideration of the value of materials
256 salvaged from existing installations, the cost of the original installation,
257 the life expectancy of the original facility and the unexpired term of
258 such life use. The books and records of the company shall be made
259 available for inspection by the implementing agency to determine the
260 equitable share of the cost of such readjustment, relocation or removal.
261 When any facility is removed from a street or public right-of-way to a
262 private right-of-way, the implementing agency shall not pay for such
263 private right-of-way. If the implementing agency and the company
264 owning or operating such facility cannot agree upon the share of the
265 cost to be borne by the implementing agency, such agency or the
266 company may apply to the superior court for the judicial district
267 within which the street or public right-of-way is situated, or, if the
268 court is not in session, to any judge thereof, for a determination of the
269 cost to be borne by the implementing agency. The court or the judge,
270 after causing notice of the pendency of such application to be given to
271 the other party, shall appoint a state referee to make such
272 determination. The referee, having given at least ten days' notice to the
273 interested parties of the time and place of the hearing, shall hear both
274 parties, take such testimony as he may deem material and thereupon
275 determine the amount of the cost to be borne by the implementing
276 agency. The referee shall immediately report the amount to the court.
277 If the report is accepted by the court, such determination shall, subject
278 to right of appeal as in civil actions, be conclusive upon such parties.

279 (g) After approval of the development plan pursuant to sections 32-
280 220 to 32-234, inclusive, the implementing agency may by purchase,
281 lease, exchange or gift acquire or rent real property necessary or

282 appropriate for the project as identified in the development plan and
283 real property and interests therein for rights-of-way and other
284 easements to and from the project area. The implementing agency
285 may, with the approval of the legislative body of the municipality, and
286 in the name of the municipality, condemn in accordance with section
287 8-128 to 8-133, inclusive, any real property necessary or appropriate for
288 the project as identified in the development plan, including real
289 property and interests in land for rights-of-way and other easements to
290 and from the project area, except that the implementing agency may
291 not condemn owner-occupied residential real property consisting of
292 four or fewer dwelling units if the project will be under the sole
293 ownership or control of a private enterprise.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	8-193
Sec. 2	<i>October 1, 2007</i>	8-200
Sec. 3	<i>October 1, 2007</i>	8-128
Sec. 4	<i>October 1, 2007</i>	32-224

Statement of Purpose:

To limit the use of eminent domain to acquire residential property consisting of four or fewer dwelling units for economic development purposes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]