

State Agencies' Eminent Domain Authority

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Issue

Which state agencies have the authority to exercise eminent domain?

This report updates OLR Report [2008-R-0193](#).

Summary

The concept of eminent domain refers to a government's authority to take private property for a public purpose. It is recognized in both the Connecticut and U.S. Constitution. Connecticut Constitution, Article First, § 11, states that, "The property of no person shall be taken for public use, without just compensation therefore." And under the Fifth Amendment of the U.S. Constitution, "No person shall be...deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

In addition to the state itself, the following state agencies have the authority to exercise eminent domain: the Department of Transportation (DOT), Department of Energy and Environmental Protection (DEEP), Department of Administrative Services (DAS), Department of Economic and Community Development (DECD), Department of Housing (DOH), and the Office of Policy and Management (OPM). We describe each agency's authority and the law that grants it in detail below.

Eminent Domain Authority

The table below lists statutes that authorize Connecticut and its state agencies to use eminent domain or condemnation. It focuses on statutes that allow the taking of land and briefly describes who may use the power and for what purposes. It does not focus on the procedures or restrictions on the use of eminent domain.

Table 1: Scope of State Eminent Domain Authority

State Law	Authority
State of Connecticut	
CGS § 48-9	<p>State institutions To build or expand a state institution or courthouse</p> <p>State schools To add to a state university system site, technical high school, or technical college</p> <p>Urban remediation To conduct the urban sites remediation action program to remediate polluted real property</p> <p>Water supply To supply water from a river, brook, spring, pond, or lake for convenience or by necessity</p>
CGS § 13b-44	<p>Airports To add or expand state airports in an approved plan</p>
CGS § 27-45	<p>Armories To locate permanent armories as deemed necessary by DAS</p>
CGS § 48-1	<p>Consent to federal land condemnation To allow the United States to condemn land for customhouses, courthouses, post offices, arsenals, and other public buildings and for other government purposes</p>
DOT	
CGS § 13a-73	<p>State highway or highway maintenance storage area For the layout, alteration, extension, widening, grade change, or other improvement to a state highway, bridge, highway maintenance storage area, or garage</p> <p>Military use For the layout, construction, maintenance, or use of roads or bridges for military purposes</p> <p>Drainage For constructing ditches, drains, gutters, or other structures to drain a state highway</p> <p>Historic preservation To preserve historical monuments or memorials that must be removed due to construction on a state highway, including by taking rights of access or exit from land abutting highways</p>

Table 1 (continued)

State Law	Authority
CGS § 13a-26	Parkways, freeways, and service highways To construct, alter, extend, widen, change the grade, or improve parkways, freeways, or service highways
CGS § 13a-37	State highway boundaries or limits To address a court challenge to prove a state highway’s boundaries or limits by condemning a right-of-way over land adjoining the traveled portion of the highway as necessary for highway purposes
CGS § 13a-57	Road as state highway To lay out any road as a state highway by acquiring new rights-of-way by condemnation
CGS § 13a-80f	Highway rights-of-way and space over or under state highways To make feasible or enhance the multiple use and joint development of highway rights-of-way and space over and under state highways by taking land, additional interests in land, or air space
CGS § 13a-85a	Highway scenic beauty, rest, and recreation To preserve, restore, or enhance the scenic beauty adjacent to state highways and to acquire land for rest and recreation areas and sanitary and other facilities
CGS § 13a-98e	Federal surface transportation urban program roadway or facility To construct and maintain the improvements of land abutting a federal surface transportation urban program roadway or facility by condemning property or rights of access and exit
CGS § 13a-123(g)	Billboards and signs To acquire billboards and other signs along highways, and the right to erect them, by condemnation and other means
CGS § 13a-123f	Junkyards and scrap metal facilities To condemn land of certain junkyards or scrap metal processing facilities that cannot be screened (i.e., they are visible from a highway)
CGS § 13a-140	Highway vegetation To maintain trees, shrubs, and vegetation by state highways by condemning an easement
CGS § 13a-142b	Linear parks To develop linear parks along and adjacent to state highways by condemning land (if requested by the DEEP commissioner and, for land more than 50 feet from the highway right-of-way, with the municipal legislative body’s approval)
CGS § 13a-142e	Route 11 Greenway To use property as part of the Route 11 Greenway by condemnation (upon the request of the Route 11 Greenway Authority Commission, which East Lyme, Montville, Salem, and Waterford may establish)
CGS § 13b-29	Commuter parking To construct and maintain commuter parking facilities by acquiring property

Table 1 (continued)

State Law	Authority
CGS § 13b-36	<p>Transportation services</p> <p>To operate or improve transportation services by taking land, buildings, equipment, or facilities</p>
CGS § 13b-42(c) & (e)	<p>Air transportation</p> <p>To maintain adequate air transportation or for public convenience or safety by taking any (1) airport, restricted landing area, or other air navigation facility owned or controlled by a municipality or other person, with some exceptions requiring consent, or (2) land, buildings, equipment, or facilities that the DOT commissioner or Connecticut Airport Authority sold, leased, or granted in certain airports or airport sites</p>
CGS § 13b-281	<p>Railroad track obstruction</p> <p>To clear the view of railroad tracks obstructed by trees, shrubs, or earth near where they cross a highway by making appropriate orders after a hearing and giving reasonable notice to relevant companies, town officials, and adjoining landowners</p>
CGS § 13b-282	<p>Railroads crossing highways</p> <p>To ensure public convenience and safe and suitable railroad operation when a highway passes over or under, by issuing orders, removing grade crossings, or taking land after scheduling a hearing and giving reasonable notice to the petitioners, company, relevant municipalities, and adjacent landowners</p>
CGS § 13b-283	<p>Railroad structure repair</p> <p>To repair structures over or under railroad tracks by taking land or rights to enter and leave land abutting any repair project</p>
DEEP	
CGS § 13a-142c	<p>Paths and parks</p> <p>To carry out projects for paths and parks near roads by acquiring land, water, or interests in them by condemnation</p>
CGS § 13a-142d	<p>Route 11 linear park</p> <p>To create a linear park along Route 11 by condemning land, water, or interests in them</p>
CGS § 22a-25	<p>DEEP functions</p> <p>For any purpose or activity related to DEEP functions by taking land, water, and rights in them</p>
CGS § 22a-45b	<p>Threat of disease</p> <p>To abate a threat of disease to humans or animals from insect vectors by condemning land</p>
CGS § 22a-320	<p>Watershed soil conservation</p> <p>To acquire easements or rights-of-way needed in connection with improvements under the watershed soil conservation provisions (except for property owned or used by public service companies)</p>

Table 1 (continued)

State Law	Authority
CGS § 22a-345	Flood hazards To set stream channel encroachment lines if existing structures or encroachments within the lines are a hazard to life and property during a flood, by taking the land and structure and removing the encroachment
CGS § 23-9	Recreation To acquire open spaces for public recreation
CGS §§ 23-9a & 26-3a	State Dams To maintain, repair, reconstruct, or remodel state-owned dams by condemnation of land, easements, or rights-of-way
CGS § 23-67	Appalachian National Scenic Trail To protect or enhance scenic beauty as needed to establish, protect, and maintain the Appalachian National Scenic Trail by acquiring land, rights-of-way, and easements
CGS §§ 25-76 & -80	Flood control For flood control measures in connection with flood control systems or projects by condemnation or for a flood control project with the U.S. Army
CGS § 26-17a	Tidal Wetlands To maintain, improve, protect, limit the future use of, or otherwise conserve tidal wetlands by acquiring them or any easements through condemnation
CGS § 26-309	Endangered Species Habitats To conserve the essential habitats of endangered, threatened, or species of special concern by condemnation
DAS	
CGS § 4b-72	Connecticut Capitol Center To develop the center by taking land, easements, or rights-of-way
DECD	
CGS § 22a-133m	Urban sites remedial action program To remediate the pollution on commercial or industrial property and lease or sell it to promote business growth or expansion or redevelopment by condemnation
DOH	
CGS § 8-82	Income-based housing To encourage and facilitate construction and rehabilitation of housing for low- and moderate-income families to buy or to buy and rehabilitate
OPM	
CGS §§ 32-655 & -658	Adriaen's Landing To acquire real property for the Adriaen's Landing Project by condemnation

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