

House Bill No. 1567

An act relating to eminent domain; creating s. 73.013, F.S.; restricting certain transfers of property taken by eminent domain to certain natural persons or private entities; preserving the government entity communications services eminent domain limitation; providing an exception to restrictions on eminent domain; creating s. 73.014, F.S.; prohibiting the exercise of eminent domain to eliminate nuisance, slum, or blight conditions; amending s. 73.021, F.S.; clarifying that use for eminent domain means public use or public purpose; amending s. 127.01, F.S.; providing that a county exercising eminent domain must strictly comply with the limitations in ss. 73.013 and 73.014, F.S.; amending s. 127.02, F.S.; requiring that a board of county commissioners adopt a resolution in order to acquire a property through the use of eminent domain; providing that a county exercising eminent domain must strictly comply with the limitations in ss. 73.013 and 73.014, F.S.; amending s. 163.335, F.S.; removing eminent domain from the scope of findings and declarations of necessity under the Community Redevelopment Act; providing that the prevention or elimination of a slum area or blighted area does not satisfy the requirement under the State Constitution that a taking be for a public purpose; amending s. 163.340, F.S.; conforming a cross-reference; amending s. 163.345, F.S.; prescribing limitations on the disposition of property related to certain efforts to encourage the participation of private enterprise in community redevelopment; amending s. 163.358, F.S.; clarifying the scope of the power of community redevelopment by a county or municipality and the authority and limitations on delegation to a community redevelopment agency; prohibiting the delegation of the power of eminent domain to a community redevelopment agency; conforming a cross-reference; amending s. 163.370, F.S.; clarifying limitations on the exercise of eminent domain in the context of community redevelopment; clarifying the manner in which property may be acquired; deleting the authority to delegate the power of eminent domain to a community redevelopment agency; repealing s. 163.375, F.S., relating to the authority of a county, municipality, or community redevelopment agency to exercise the power of eminent domain in connection with community redevelopment for the purpose of preventing and eliminating slums and blight; amending s. 163.380, F.S.; subjecting the disposal of property acquired by eminent domain within a community redevelopment area to certain restrictions; eliminating the authority to use eminent domain to acquire certain areas adjacent to disposed property; amending s. 166.401, F.S.; requiring that the governing body of a municipality adopt a resolution in order to acquire a property through the use of eminent domain; providing that a municipality exercising eminent domain must strictly comply with the limitations in ss. 73.013 and 73.014, F.S.; amending s. 166.411, F.S.; providing that the exercise of eminent domain by a municipality is subject to the limitations in ss. 73.013 and 73.014, F.S.; eliminating the authority of a municipality to use

eminent domain for the abatement of nuisances; providing applicability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 73.013, Florida Statutes, is created to read:

73.013 Conveyance of property taken by eminent domain; preservation of government entity communications services eminent domain limitation; exception to restrictions on power of eminent domain.—

(1) Notwithstanding any other provision of law, including any charter provision, ordinance, statute, or special law, if the state, any political subdivision as defined in s. 1.01(8), or any other entity to which the power of eminent domain is delegated files a petition of condemnation on or after the effective date of this section regarding a parcel of real property in this state, ownership or control of property acquired pursuant to such petition may not be conveyed by the condemning authority or any other entity to a natural person or private entity, by lease or otherwise, except that ownership or control of property acquired pursuant to such petition may be conveyed, by lease or otherwise, to a natural person or private entity:

(a) For use in providing common-carrier services or systems;

(b)1. For use as a road or other right-of-way or means that is open to the public for transportation, whether at no charge or by toll;

2. For use in the provision of transportation-related services, business opportunities, and products pursuant to s. 338.234, on a toll road;

(c) That is a public or private utility for use in providing electricity services or systems, natural or manufactured gas services or systems, water and wastewater services or systems, stormwater or runoff services or systems, sewer services or systems, pipeline facilities, telephone services or systems, or similar services or systems;

(d) For use in providing public infrastructure;

(e) That occupies, pursuant to a lease, an incidental part of a public property or a public facility for the purpose of providing goods or services to the public;

(f) Without restriction, after public notice and competitive bidding unless otherwise provided by general law, if less than 10 years have elapsed since the condemning authority acquired title to the property and the following conditions are met:

1. The condemning authority or governmental entity holding title to the property documents that the property is no longer needed for the use or purpose for which it was acquired by the condemning authority or for which it was transferred to the current titleholder; and

2. The owner from whom the property was taken by eminent domain is given the opportunity to repurchase the property at the price that he or she received from the condemning authority;

(g) After public notice and competitive bidding unless otherwise provided by general law, if the property was owned and controlled by the condemning authority or a governmental entity for at least 10 years after the condemning authority acquired title to the property; or

(h) In accordance with subsection (2).

(2)(a) If ownership of property is conveyed to a natural person or private entity pursuant to paragraph (1)(a), paragraph (1)(b), paragraph (1)(c), paragraph (1)(d), or paragraph (1)(e), and at least 10 years have elapsed since the condemning authority acquired title to the property, the property may subsequently be transferred, after public notice and competitive bidding unless otherwise provided by general law, to another natural person or private entity without restriction.

(b) If ownership of property is conveyed to a natural person or private entity pursuant to paragraph (1)(a), paragraph (1)(b), paragraph (1)(c), paragraph (1)(d), or paragraph (1)(e), and less than 10 years have elapsed since the condemning authority acquired title to the property, the property may be transferred, after public notice and competitive bidding unless otherwise provided by general law, to another natural person or private entity without restriction, if the following conditions are met:

1. The current titleholder documents that the property is no longer needed for the use or purpose for which the property was transferred to the current titleholder; and

2. The owner from whom the property was taken by eminent domain is given the opportunity to repurchase the property at the price that he or she received from the condemning authority.

(3) This section does not affect the limitation on a government entity's powers of eminent domain contained in s. 350.81(2)(j).

(4) The power of eminent domain shall be restricted as provided in chapters 73, 127, 163, and 166, except when the owner of a property relinquishes the property and concedes to the taking of the property in order to retain the ability to reinvest the proceeds of the sale of the property in replacement property under s. 1033 of the Internal Revenue Code.

Section 2. Section 73.014, Florida Statutes, is created to read:

73.014 Taking property to eliminate nuisance, slum, or blight conditions prohibited.—

(1) Notwithstanding any other provision of law, including any charter provision, ordinance, statute, or special law, the state, any political subdivision as defined in s. 1.01(8), or any other entity to which the power of eminent domain is delegated may not exercise the power of eminent domain to take private property for the purpose of abating or eliminating a public nuisance. Notwithstanding any other provision of law, including any charter provision, ordinance, statute, or special law, abating or eliminating a public nuisance is not a valid public purpose or use for which private property may

be taken by eminent domain and does not satisfy the public-purpose requirement of s. 6(a), Art. X of the State Constitution. This subsection does not diminish the power of counties or municipalities to adopt or enforce county or municipal ordinances related to code enforcement or the elimination of public nuisances to the extent such ordinances do not authorize the taking of private property by eminent domain.

(2) Notwithstanding any other provision of law, including any charter provision, ordinance, statute, or special law, the state, any political subdivision as defined in s. 1.01(8), or any other entity to which the power of eminent domain is delegated may not exercise the power of eminent domain to take private property for the purpose of preventing or eliminating slum or blight conditions. Notwithstanding any other provision of law, including any charter provision, ordinance, statute, or special law, taking private property for the purpose of preventing or eliminating slum or blight conditions is not a valid public purpose or use for which private property may be taken by eminent domain and does not satisfy the public-purpose requirement of s. 6(a), Art. X of the State Constitution.

Section 3. Section 73.021, Florida Statutes, is amended to read:

73.021 Petition; contents.—Those having the right to exercise the power of eminent domain may file a petition therefor in the circuit court of the county wherein the property lies, which petition shall set forth:

(1) The authority under which and the public use or purpose for which the property is to be acquired, and that the property is necessary for that public use or purpose;

(2) A description identifying the property sought to be acquired. The petitioners may join in the same action all properties involved in a planned project whether in the same or different ownership, or whether or not the property is sought for the same use;

(3) The estate or interest in the property which the petitioner intends to acquire;

(4) The names, places of residence, legal disabilities, if any, and interests in the property of all owners, lessees, mortgagees, judgment creditors, and lienholders, so far as ascertainable by diligent search, and all unknown persons having an interest in the property when the petitioner has been unable to ascertain the identity of such persons by diligent search and inquiry. If any interest in the property, or lien thereon, belongs to the unsettled estate of a decedent, the executor or administrator shall be made a defendant without joining the devisee or heir; if a trust estate, the trustee shall be made a defendant without joining the cestui que trust. The court may appoint an administrator ad litem to represent the estate of a deceased person whose estate is not being administered, and a guardian ad litem for all defendants who are infants or are under other legal disabilities; and for defendants whose names or addresses are unknown. A copy of the order of appointment shall be served on the guardian ad litem at least 10 days before trial unless he or she has entered an appearance;

(5) Whether any mobile home is located on the property sought to be acquired and, if so, whether the removal of that mobile home will be required. If such removal shall be required, the petition shall name the owners of each such mobile home as defendants. This subsection shall not apply to any governmental authority exercising its power of eminent domain when reasonable relocation or removal expenses must be paid to mobile home owners under other provisions of law or agency rule applicable to such exercise of power;

(6) A statement that the petitioner has surveyed and located its line or area of construction, and intends in good faith to construct the project on or over the described property; and

(7) A demand for relief that the property be condemned and taken for the uses and purposes set forth in the petition, and that the interest sought be vested in the petitioner.

Section 4. Section 127.01, Florida Statutes, is amended to read:

127.01 Counties delegated power of eminent domain; recreational purposes, issue of necessity of taking; compliance with limitations.—

(1)(a) Each county of the state is delegated authority to exercise the right and power of eminent domain; that is, the right to appropriate property, except state or federal, for any county purpose. The absolute fee simple title to all property so taken and acquired shall vest in such county unless the county seeks to condemn a particular right or estate in such property.

(b) Each county is further authorized to exercise the eminent domain power granted to the Department of Transportation by s. 337.27(1), the transportation corridor protection provisions of s. 337.273, and the right of entry onto property pursuant to s. 337.274.

(2) However, no county has the right to condemn any lands outside its own county boundaries for parks, playgrounds, recreational centers, or other recreational purposes. In eminent domain proceedings, a county's burden of showing reasonable necessity for parks, playgrounds, recreational centers, or other types of recreational purposes shall be the same as the burden in other types of eminent domain proceedings.

(3) A county shall strictly comply with the limitations set forth in ss. 73.013 and 73.014.

Section 5. Section 127.02, Florida Statutes, is amended to read:

127.02 County commissioners may authorize acquirement of property by eminent domain.—The board of county commissioners may not exercise its power of eminent domain unless the board adopts a resolution authorizing the acquisition, by resolution, authorize the acquirement by eminent domain of a property, real or personal, by eminent domain for any county use or purpose designated in such resolution, subject to the limitations set forth in ss. 73.013 and 73.014.

Section 6. Subsection (3) of section 163.335, Florida Statutes, is amended, and subsection (7) is added to that section, to read:

163.335 Findings and declarations of necessity.—

(3) It is further found and declared that the powers conferred by this part are for public uses and purposes for which public money may be expended ~~and the power of eminent domain~~ and police power exercised, and the necessity in the public interest for the provisions herein enacted is ~~hereby~~ declared as a matter of legislative determination.

(7) It is further found and declared that the prevention or elimination of a slum area or blighted area as defined in this part and the preservation or enhancement of the tax base are not public uses or purposes for which private property may be taken by eminent domain and do not satisfy the public-purpose requirement of s. 6(a), Art. X of the State Constitution.

Section 7. Subsection (12) of section 163.340, Florida Statutes, is amended to read:

163.340 Definitions.—The following terms, wherever used or referred to in this part, have the following meanings:

(12) “Related activities” means:

(a) Planning work for the preparation of a general neighborhood redevelopment plan or for the preparation or completion of a communitywide plan or program pursuant to s. 163.365.

(b) The functions related to the acquisition and disposal of real property pursuant to s. 163.370(4) ~~s. 163.370(3)~~.

(c) The development of affordable housing for residents of the area.

(d) The development of community policing innovations.

Section 8. Subsection (1) of section 163.345, Florida Statutes, is amended to read:

163.345 Encouragement of private enterprise.—

(1) Any county or municipality, to the greatest extent it determines to be feasible in carrying out the provisions of this part, shall afford maximum opportunity, consistent with the sound needs of the county or municipality as a whole, to the rehabilitation or redevelopment of the community redevelopment area by private enterprise. Any county or municipality shall give consideration to this objective in exercising its powers under this part, including the formulation of a workable program; the approval of community redevelopment plans, communitywide plans or programs for community redevelopment, and general neighborhood redevelopment plans (consistent with the general plan of the county or municipality); the development and implementation of community policing innovations; the exercise of its zoning powers; the enforcement of other laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements; the

development of affordable housing; the disposition of any property acquired, subject to the limitations of s. 73.013; and the provision of necessary public improvements.

Section 9. Section 163.358, Florida Statutes, is amended to read:

163.358 Exercise of powers in carrying out community redevelopment and related activities.—~~Each county and municipality has all powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including those powers granted under s. 163.370. A county or municipality may delegate such powers to a community redevelopment agency created under s. 163.356. The community redevelopment powers assigned to a community redevelopment agency created under s. 163.356 include all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, except the following, which continue to vest in the governing body of the county or municipality:~~

(1) The power to determine an area to be a slum or blighted area, or combination thereof; to designate such area as appropriate for community redevelopment; and to hold any public hearings required with respect thereto.

(2) The power to grant final approval to community redevelopment plans and modifications thereof.

(3) The power to authorize the issuance of revenue bonds as set forth in s. 163.385.

(4) The power to approve the acquisition, demolition, removal, or disposal of property as provided in s. 163.370(4) ~~s. 163.370(3)~~ and the power to assume the responsibility to bear loss as provided in s. 163.370(4) ~~s. 163.370(3)~~.

(5) The power to approve the development of community policing innovations.

(6) The power of eminent domain.

Section 10. Section 163.370, Florida Statutes, is amended to read:

163.370 Powers; counties and municipalities; community redevelopment agencies.—

(1) Counties and municipalities may not exercise the power of eminent domain for the purpose of preventing or eliminating a slum area or blighted area as defined in this part; however, counties and municipalities may acquire property by eminent domain within a community redevelopment area, subject to the limitations set forth in ss. 73.013 and 73.014 or other general law.

~~(2)~~(1) Every county and municipality shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers in addition to others herein granted:

(a) To make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this part.;

(b) To disseminate slum clearance and community redevelopment information.;

(c) To undertake and carry out community redevelopment and related activities within the community redevelopment area, which redevelopment may include:

1. Acquisition of property within a slum area or a blighted area by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition or portion thereof.

2. Demolition and removal of buildings and improvements.

3. Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, public areas of major hotels that are constructed in support of convention centers, including meeting rooms, banquet facilities, parking garages, lobbies, and passageways, and other improvements necessary for carrying out in the community redevelopment area the community redevelopment objectives of this part in accordance with the community redevelopment plan.

4. Disposition of any property acquired in the community redevelopment area at its fair value for uses in accordance with the community redevelopment plan.

5. Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the community redevelopment plan.

6. Acquisition by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition of real property in the community redevelopment area which, under the community redevelopment plan, is to be repaired or rehabilitated for dwelling use or related facilities, repair or rehabilitation of the structures for guidance purposes, and resale of the property.

7. Acquisition by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition of any other real property in the community redevelopment area when necessary to eliminate unhealthful, unsanitary, or unsafe conditions; lessen density; eliminate obsolete or other uses detrimental to the public welfare; or otherwise to remove or prevent the spread of blight or deterioration or to provide land for needed public facilities.

8. Acquisition, without regard to any requirement that the area be a slum or blighted area, of air rights in an area consisting principally of land in highways, railway or subway tracks, bridge or tunnel entrances, or other similar facilities which have a blighting influence on the surrounding area and over which air rights sites are to be developed for the elimination of such blighting influences and for the provision of housing (and related facilities

and uses) designed specifically for, and limited to, families and individuals of low or moderate income.

9. Acquisition by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition of property in unincorporated enclaves surrounded by the boundaries of a community redevelopment area when it is determined necessary by the agency to accomplish the community redevelopment plan.

10.9. Construction of foundations and platforms necessary for the provision of air rights sites of housing (and related facilities and uses) designed specifically for, and limited to, families and individuals of low or moderate income.

(d) To provide, or to arrange or contract for, the furnishing or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities, or other facilities for or in connection with a community redevelopment; to install, construct, and reconstruct streets, utilities, parks, playgrounds, and other public improvements; and to agree to any conditions that it deems reasonable and appropriate which are attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of a community redevelopment and related activities, and to include in any contract let in connection with such redevelopment and related activities provisions to fulfill such of the conditions as it deems reasonable and appropriate.

(e) Within the community redevelopment area:

1. To enter into any building or property in any community redevelopment area in order to make inspections, surveys, appraisals, soundings, or test borings and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.

2. To acquire by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition, ~~eminent domain, or otherwise~~ any real property (or personal property for its administrative purposes), together with any improvements thereon; ~~except that a community redevelopment agency may not exercise any power of eminent domain unless the exercise has been specifically approved by the governing body of the county or municipality which established the agency.~~

3. To hold, improve, clear, or prepare for redevelopment any such property.

4. To mortgage, pledge, hypothecate, or otherwise encumber or dispose of any real property.

5. To insure or provide for the insurance of any real or personal property or operations of the county or municipality against any risks or hazards, including the power to pay premiums on any such insurance.

6. To enter into any contracts necessary to effectuate the purposes of this part.

7. To solicit requests for proposals for redevelopment of parcels of real property contemplated by a community redevelopment plan to be acquired for redevelopment purposes by a community redevelopment agency and, as a result of such requests for proposals, to advertise for the disposition of such real property to private persons pursuant to s. 163.380 prior to acquisition of such real property by the community redevelopment agency.

(f) To invest any community redevelopment funds held in reserves or sinking funds or any such funds not required for immediate disbursement in property or securities in which savings banks may legally invest funds subject to their control and to redeem such bonds as have been issued pursuant to s. 163.385 at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be canceled.

(g) To borrow money and to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the Federal Government or the state, county, or other public body or from any sources, public or private, for the purposes of this part and to give such security as may be required and to enter into and carry out contracts or agreements in connection therewith; and to include in any contract for financial assistance with the Federal Government for or with respect to community redevelopment and related activities such conditions imposed pursuant to federal laws as the county or municipality deems reasonable and appropriate which are not inconsistent with the purposes of this part.

(h) Within its area of operation, to make or have made all surveys and plans necessary to the carrying out of the purposes of this part; to contract with any person, public or private, in making and carrying out such plans; and to adopt or approve, modify, and amend such plans, which plans may include, but are not limited to:

1. Plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements.

2. Plans for the enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements.

3. Appraisals, title searches, surveys, studies, and other plans and work necessary to prepare for the undertaking of community redevelopment and related activities.

(i) To develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of slums and urban blight and developing and demonstrating new or improved means of providing housing for families and persons of low income.

(j) To apply for, accept, and utilize grants of funds from the Federal Government for such purposes.

(k) To prepare plans for and assist in the relocation of persons (including individuals, families, business concerns, nonprofit organizations, and oth-

ers) displaced from a community redevelopment area and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the Federal Government.

(l) To appropriate such funds and make such expenditures as are necessary to carry out the purposes of this part; to zone or rezone any part of the county or municipality or make exceptions from building regulations; and to enter into agreements with a housing authority, which agreements may extend over any period, notwithstanding any provision or rule of law to the contrary, respecting action to be taken by such county or municipality pursuant to any of the powers granted by this part.

(m) To close, vacate, plan, or replan streets, roads, sidewalks, ways, or other places and to plan or replan any part of the county or municipality.

(n) Within its area of operation, to organize, coordinate, and direct the administration of the provisions of this part, as they may apply to such county or municipality, in order that the objective of remedying slum and blighted areas and preventing the causes thereof within such county or municipality may be most effectively promoted and achieved and to establish such new office or offices of the county or municipality or to reorganize existing offices in order to carry out such purpose most effectively.

~~(o) To exercise all or any part or combination of powers herein granted or to elect to have such powers exercised by a community redevelopment agency.~~

~~(o)(p)~~ To develop and implement community policing innovations.

~~(3)(2)~~ The following projects may not be paid for or financed by increment revenues:

(a) Construction or expansion of administrative buildings for public bodies or police and fire buildings, unless each taxing authority agrees to such method of financing for the construction or expansion, or unless the construction or expansion is contemplated as part of a community policing innovation.

(b) Installation, construction, reconstruction, repair, or alteration of any publicly owned capital improvements or projects which are not an integral part of or necessary for carrying out the community redevelopment plan if such projects or improvements are normally financed by the governing body with user fees or if such projects or improvements would be installed, constructed, reconstructed, repaired, or altered within 3 years of the approval of the community redevelopment plan by the governing body pursuant to a previously approved public capital improvement or project schedule or plan of the governing body which approved the community redevelopment plan.

(c) General government operating expenses unrelated to the planning and carrying out of a community redevelopment plan.

(4)(3) With the approval of the governing body, a community redevelopment agency may:

(a) Prior to approval of a community redevelopment plan or approval of any modifications of the plan, acquire real property in a community redevelopment area by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition, demolish and remove any structures on the property, and pay all costs related to the acquisition, demolition, or removal, including any administrative or relocation expenses.

(b) Assume the responsibility to bear any loss that may arise as the result of the exercise of authority under this subsection, in the event that the real property is not made part of the community redevelopment area.

Section 11. Section 163.375, Florida Statutes, is repealed.

Section 12. Section 163.380, Florida Statutes, is amended to read:

163.380 Disposal of property in community redevelopment area.—The disposal of property in a community redevelopment area which is acquired by eminent domain is subject to the limitations set forth in s. 73.013.

(1) Any county, municipality, or community redevelopment agency may sell, lease, dispose of, or otherwise transfer real property or any interest therein acquired by it for community redevelopment in a community redevelopment area to any private person, or may retain such property for public use, and may enter into contracts with respect thereto for residential, recreational, commercial, industrial, educational, or other uses, in accordance with the community redevelopment plan, subject to such covenants, conditions, and restrictions, including covenants running with the land, as it deems necessary or desirable to assist in preventing the development or spread of future slums or blighted areas or to otherwise carry out the purposes of this part. However, such sale, lease, other transfer, or retention, and any agreement relating thereto, may be made only after the approval of the community redevelopment plan by the governing body. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the community redevelopment plan and may be obligated to comply with such other requirements as the county, municipality, or community redevelopment agency may determine to be in the public interest, including the obligation to begin any improvements on such real property required by the community redevelopment plan within a reasonable time.

(2) Such real property or interest shall be sold, leased, otherwise transferred, or retained at a value determined to be in the public interest for uses in accordance with the community redevelopment plan and in accordance with such reasonable disposal procedures as any county, municipality, or community redevelopment agency may prescribe. In determining the value of real property as being in the public interest for uses in accordance with the community redevelopment plan, the county, municipality, or community redevelopment agency shall take into account and give consideration to the long-term benefits to be achieved by the county, municipality, or community redevelopment agency resulting from incurring short-term losses or costs in

the disposal of such real property; the uses provided in such plan; the restrictions upon, and the covenants, conditions, and obligations assumed by, the purchaser or lessee or by the county, municipality, or community redevelopment agency retaining the property; and the objectives of such plan for the prevention of the recurrence of slum or blighted areas. In the event the value of such real property being disposed of is for less than the fair value, such disposition shall require the approval of the governing body, which approval may only be given following a duly noticed public hearing. The county, municipality, or community redevelopment agency may provide in any instrument of conveyance to a private purchaser or lessee that such purchaser or lessee is without power to sell, lease, or otherwise transfer the real property without the prior written consent of the county, municipality, or community redevelopment agency until the purchaser or lessee has completed the construction of any or all improvements which he or she has obligated himself or herself to construct thereon. Real property acquired by the county, municipality, or community redevelopment agency which, in accordance with the provisions of the community redevelopment plan, is to be transferred shall be transferred as rapidly as feasible in the public interest, consistent with the carrying out of the provisions of the community redevelopment plan. Any contract for such transfer and the community redevelopment plan, or such part or parts of such contract or plan as the county, municipality, or community redevelopment agency may determine, may be recorded in the land records of the clerk of the circuit court in such manner as to afford actual or constructive notice thereof.

(3)(a) Prior to disposition of any real property or interest therein in a community redevelopment area, any county, municipality, or community redevelopment agency shall give public notice of such disposition by publication in a newspaper having a general circulation in the community, at least 30 days prior to the execution of any contract to sell, lease, or otherwise transfer real property and, prior to the delivery of any instrument of conveyance with respect thereto under the provisions of this section, invite proposals from, and make all pertinent information available to, private redevelopers or any persons interested in undertaking to redevelop or rehabilitate a community redevelopment area or any part thereof. Such notice shall identify the area or portion thereof and shall state that proposals must be made by those interested within 30 days after the date of publication of the notice and that such further information as is available may be obtained at such office as is designated in the notice. The county, municipality, or community redevelopment agency shall consider all such redevelopment or rehabilitation proposals and the financial and legal ability of the persons making such proposals to carry them out; and the county, municipality, or community redevelopment agency may negotiate with any persons for proposals for the purchase, lease, or other transfer of any real property acquired by it in the community redevelopment area. The county, municipality, or community redevelopment agency may accept such proposal as it deems to be in the public interest and in furtherance of the purposes of this part. Except in the case of a governing body acting as the agency, as provided in s. 163.357, a notification of intention to accept such proposal must be filed with the governing body not less than 30 days prior to any such acceptance. Thereafter, the county, municipality, or community redevelopment agency may execute such contract in accordance with the provisions of subsection

(1) and deliver deeds, leases, and other instruments and take all steps necessary to effectuate such contract.

(b) Any county, municipality, or community redevelopment agency that, pursuant to the provisions of this section, has disposed of a real property project with a land area in excess of 20 acres may acquire an expanded area that is immediately adjacent to the original project and less than 35 percent of the land area of the original project, by purchase ~~or eminent domain~~ as provided in this chapter, and negotiate a disposition of such expanded area directly with the person who acquired the original project without complying with the disposition procedures established in paragraph (a), provided the county, municipality, or community redevelopment agency adopts a resolution making the following findings:

1. It is in the public interest to expand such real property project to an immediately adjacent area.

2. The expanded area is less than 35 percent of the land area of the original project.

3. The expanded area is entirely within the boundary of the community redevelopment area.

(4) Any county, municipality, or community redevelopment agency may temporarily operate and maintain real property acquired by it in a community redevelopment area for or in connection with a community redevelopment plan pending the disposition of the property as authorized in this part, without regard to the provisions of subsection (1), for such uses and purposes as may be deemed desirable, even though not in conformity with the community redevelopment plan.

(5) If any conflict exists between the provisions of this section and s. 159.61, the provisions of this section govern and supersede those of s. 159.61.

(6) Notwithstanding any provision of this section, if a community redevelopment area is established by the governing body for the redevelopment of property located on a closed military base within the governing body's boundaries, the procedures for disposition of real property within that community redevelopment area shall be prescribed by the governing body, and compliance with the other provisions of this section shall not be required prior to the disposal of real property.

Section 13. Section 166.401, Florida Statutes, is amended to read:

166.401 Right of eminent domain; procedure; compliance with limitations.—

(1) All municipalities in the state may exercise the right and power of eminent domain; that is, the right to appropriate property within the state, except state or federal property, for the uses or purposes authorized pursuant to this part. The absolute fee simple title to all property so taken and acquired shall vest in such municipal corporation unless the municipality seeks to condemn a particular right or estate in such property.

(2) Each municipality is further authorized to exercise the eminent domain power granted to the Department of Transportation in s. 337.27(1) and the transportation corridor protection provisions of s. 337.273.

(3) The local governing body of a municipality may not exercise its power of eminent domain unless the governing body adopts a resolution authorizing the acquisition of a property, real or personal, by eminent domain for any municipal use or purpose designated in such resolution.

(4) Each municipality shall strictly comply with the limitations set forth in ss. 73.013 and 73.014.

Section 14. Section 166.411, Florida Statutes, is amended to read:

166.411 Eminent domain; uses or purposes.—Subject to the limitations set forth in ss. 73.013 and 73.014, municipalities are authorized to exercise the power of eminent domain for the following uses or purposes:

(1) For the proper and efficient carrying into effect of any proposed scheme or plan of drainage, ditching, grading, filling, or other public improvement deemed necessary or expedient for the preservation of the public health, or for other good reason connected in anywise with the public welfare or the interests of the municipality and the people thereof;

(2) Over railroads, traction and streetcar lines, telephone and telegraph lines, all public and private streets and highways, drainage districts, bridge districts, school districts, or any other public or private lands whatsoever necessary to enable the accomplishment of purposes listed in s. 180.06;

(3) For streets, lanes, alleys, and ways;

(4) For public parks, squares, and grounds;

(5) For drainage, for raising or filling in land in order to promote sanitation and healthfulness, and for the taking of easements for the drainage of the land of one person over and through the land of another;

(6) For reclaiming and filling when lands are low and wet, or overflowed altogether or at times, or entirely or partly;

~~(7) For the abatement of any nuisance;~~

~~(7)(8)~~ For the use of water pipes and for sewerage and drainage purposes;

~~(8)(9)~~ For laying wires and conduits underground; and

~~(9)(10)~~ For city buildings, waterworks, ponds, and other municipal purposes which shall be coextensive with the powers of the municipality exercising the right of eminent domain; ~~and~~

Section 15. This act shall take effect upon becoming a law and applies to all property for which a petition of condemnation is filed pursuant to chapter 73 or chapter 74, Florida Statutes, on or after that date.

Approved by the Governor May 11, 2006.

Filed in Office Secretary of State May 11, 2006.