

Bill No. SB 2168

Barcode 980844

CHAMBER ACTION

Senate

House

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The Committee on Judiciary (Webster) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

73.013 Conveyance of property taken by 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 July 1, 2006, regarding a parcel of real property in this state, ownership, lease, 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, except that ownership,

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1 lease, or control of property acquired pursuant to such
2 petition may be conveyed to a natural person or private
3 entity:

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

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

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

15 (d) For use in providing public infrastructure;

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

19 (f) After public notice and competitive bidding,
20 unless otherwise provided by general law, if the property was
21 owned and controlled by the condemning authority or a
22 governmental entity for less than 10 years after the
23 condemning authority acquired title to the property, the
24 condemning authority has shown that the property is no longer
25 needed for the use or purpose for which it was acquired, and
26 the owner from whom the property was taken by eminent domain
27 was given the opportunity to repurchase the property at the
28 price he or she received from the condemning authority;

29 (g) After public notice and competitive bidding,
30 unless otherwise provided by general law, if the property was
31 owned and controlled by the condemning authority or a

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1 governmental entity for at least 10 years after the condemning
2 authority acquired title to the property; or

3 (h) In accordance with subsection (2).

4 (2) If ownership of property is conveyed to a natural
5 person or private entity pursuant to paragraph (1)(a),
6 paragraph (1)(b), paragraph (1)(c), paragraph (1)(d), or
7 paragraph (1)(e), and that natural person or private entity
8 retains ownership and control of the property for at least 10
9 years after acquiring title, the property may subsequently be
10 transferred, after public notice and competitive bidding
11 unless otherwise provided by general law, to another natural
12 person or private entity without restriction.

13 Section 2. Section 73.021, Florida Statutes, is
14 amended to read:

15 73.021 Petition; contents; burden of proof.--Those
16 having the right to exercise the power of eminent domain may
17 file a petition therefor in the circuit court of the county
18 wherein the property lies, which petition shall set forth:

19 (1) The authority under which and the public use or
20 purpose for which the property is to be acquired, and that the
21 property is reasonably necessary for that public use or
22 purpose. The condemning authority has the burden of showing
23 reasonable necessity and a public purpose or use. The public
24 interest must dominate any private gain;

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

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

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

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

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

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1 | property; and

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

5 | Section 3. Section 127.01, Florida Statutes, is
6 | amended to read:

7 | 127.01 Counties limited delegated power of eminent
8 | domain; recreational purposes, ~~issue of necessity of taking.--~~

9 | (1)~~(a)~~ The power of eminent domain is preempted to the
10 | state except as otherwise provided by general law. Each county
11 | of the state is delegated limited authority to exercise the
12 | right and power of eminent domain; that is, the right to
13 | appropriate property, for the uses or purposes authorized
14 | under this section or as otherwise provided by general law
15 | ~~except state or federal, for any county purpose. However, no~~
16 | real property belonging to the United States, the state, or
17 | any political subdivision of the state may be acquired without
18 | its consent. The absolute fee simple title to all property so
19 | taken and acquired shall vest in such county unless the county
20 | seeks to condemn a particular right or estate in such
21 | property. The conveyance of property taken by eminent domain
22 | is subject to the limitations set forth in s. 73.013.

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

28 | (2) Counties are authorized to exercise the power of
29 | eminent domain for the following uses or purposes:

30 | (a) For a scheme or plan of drainage, ditching,
31 | grading, filling, or other similar public improvement, if such

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1 scheme or plan is deemed necessary or expedient for:

2 1. The preservation of the public health; or

3 2. Other good reasons connected with the public

4 welfare of the county.

5 (b) Over railroads, traction and streetcar lines,

6 telephone and telegraph lines, all public and private streets

7 and highways, drainage districts, bridge districts, school

8 districts, or any other public or private lands whatsoever

9 necessary to enable a county or private company to accomplish

10 the following purposes:

11 1. To clean and improve street channels or other

12 bodies of water for sanitary purposes;

13 2. To provide a means for the regulation of the flow

14 of streams for sanitary purposes;

15 3. To provide water and alternative water supplies,

16 including, but not limited to, reclaimed water and water from

17 aquifer storage and recovery and desalination systems for

18 domestic, county, or industrial uses;

19 4. To provide for the collection and disposal of

20 sewage, including wastewater reuse and other liquid wastes;

21 5. To provide for the collection and disposal of

22 garbage;

23 6. To construct reservoirs, sewerage systems, trunk

24 sewers, intercepting sewers, pumping stations, wells, siphons,

25 intakes, pipelines, distribution systems, purification works,

26 collection systems, or treatment and disposal works that are

27 incidental to such purposes and to enable the accomplishment

28 of such purposes;

29 7. To construct airports, hospitals, jails, and golf

30 courses; to maintain, operate, and repair the same; and to

31 construct and operate in addition thereto all machinery and

1 equipment;

2 8. To construct, operate, and maintain gas plants and
3 distribution systems for domestic, county, and industrial
4 uses; and

5 9. To construct such other buildings and facilities as
6 may be required to properly and economically operate and
7 maintain the works necessary for fulfilling the purposes of
8 this paragraph.

9
10 However, a private company or county may not construct any
11 system, work, project, or utility authorized to be constructed
12 under this paragraph if a system, work, project, or utility of
13 a similar character is being actually operated by a county,
14 municipality, or private company in the county, municipality,
15 or territory immediately adjacent thereto, unless such county,
16 municipality, or private company consents to such
17 construction. As used in this paragraph, the term "private
18 company" means a company or corporation organized for the
19 purposes contained in this paragraph and duly authorized under
20 the laws of the state to construct or operate water works
21 systems, sewerage systems, sewage treatment works, or garbage
22 collection and garbage disposal plants.

23 (c) For streets, roads, highways, bridges, sidewalks,
24 curbs, curb ramps, crosswalks, underpasses, and overpasses.

25 (d) For public parks, squares, and grounds.

26 (e) For drainage, for raising or filling in land in
27 order to promote sanitation and healthfulness, and for the
28 taking of easements for the drainage of the land of one person
29 over and through the land of another.

30 (f) For reclaiming and filling when lands are low and
31 wet or overflowed, entirely or partly, altogether or at times.

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1 (g) For the use of water pipes and for sewerage and
2 drainage purposes.

3 (h) For laying wires and conduits.

4 (i) For county buildings, waterworks, and ponds.

5 (j) For other uses or purposes of the same or similar
6 type as the uses or purposes enumerated in this subsection.

7 (3) Each county is further authorized to exercise the
8 eminent domain power granted by s. 337.27(1) to the Department
9 of Transportation; by s.337.273, relating to the protection of
10 transportation corridors; and by s. 337.274, relating to the
11 right of entry onto property.

12 (4)(2) However, no county has the right to condemn any
13 lands outside its own county boundaries for parks,
14 playgrounds, recreational centers, or other recreational
15 purposes. ~~In eminent domain proceedings, a county's burden of~~
16 ~~showing reasonable necessity for parks, playgrounds,~~
17 ~~recreational centers, or other types of recreational purposes~~
18 ~~shall be the same as the burden in other types of eminent~~
19 ~~domain proceedings.~~

20 (5) When a county exercises the power of eminent
21 domain for an authorized use or purpose, it must do so in the
22 manner provided for in chapters 73 and 74.

23 Section 4. Section 127.02, Florida Statutes, is
24 amended to read:

25 127.02 County commissioners may authorize acquirement
26 of property by eminent domain for a use or purpose authorized
27 by general law.--The board of county commissioners may not
28 exercise its power of eminent domain unless the board adopts a
29 resolution authorizing the acquisition, ~~by resolution,~~
30 ~~authorize the acquirement by eminent domain of a~~ property,
31 real or personal, by eminent domain for any county use or

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1 purpose authorized by general law ~~designated in such~~
2 ~~resolution.~~

3 Section 5. Subsection (3) of section 163.335, Florida
4 Statutes, is amended to read:

5 163.335 Findings and declarations of necessity.--

6 (3) It is further found and declared that the powers
7 conferred by this part are for public uses and purposes for
8 which public money may be expended ~~and the power of eminent~~
9 ~~domain~~ and police power exercised, and the necessity in the
10 public interest for the provisions herein enacted is ~~hereby~~
11 declared as a matter of legislative determination. However, it
12 is found and declared that the prevention and elimination of
13 slums and blight does not satisfy the public-purpose
14 requirement of s. 6(a), Art. X of the State Constitution.

15 Section 6. Subsection (12) of section 163.340, Florida
16 Statutes, is amended to read:

17 163.340 Definitions.--The following terms, wherever
18 used or referred to in this part, have the following meanings:

19 (12) "Related activities" means:

20 (a) Planning work for the preparation of a general
21 neighborhood redevelopment plan or for the preparation or
22 completion of a communitywide plan or program pursuant to s.
23 163.365.

24 (b) The functions related to the acquisition and
25 disposal of real property pursuant to s. 163.370(4) ~~s.~~
26 ~~163.370(3)~~.

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

29 (d) The development of community policing innovations.

30 Section 7. Subsection (1) of section 163.345, Florida
31 Statutes, is amended to read:

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1 163.345 Encouragement of private enterprise.--
2 (1) Any county or municipality, to the greatest extent
3 it determines to be feasible in carrying out the provisions of
4 this part, shall afford maximum opportunity, consistent with
5 the sound needs of the county or municipality as a whole, to
6 the rehabilitation or redevelopment of the community
7 redevelopment area by private enterprise. Any county or
8 municipality shall give consideration to this objective in
9 exercising its powers under this part, including the
10 formulation of a workable program; the approval of community
11 redevelopment plans, communitywide plans or programs for
12 community redevelopment, and general neighborhood
13 redevelopment plans (consistent with the general plan of the
14 county or municipality); the development and implementation of
15 community policing innovations; the exercise of its zoning
16 powers; the enforcement of other laws, codes, and regulations
17 relating to the use of land and the use and occupancy of
18 buildings and improvements; the development of affordable
19 housing; the disposition of any property acquired, subject to
20 the limitations of s. 73.013; and the provision of necessary
21 public improvements.

22 Section 8. Section 163.358, Florida Statutes, is
23 amended to read:

24 163.358 Exercise of powers in carrying out community
25 redevelopment and related activities.--Each county and
26 municipality has all powers necessary or convenient to carry
27 out and effectuate the purposes and provisions of this part,
28 including those powers granted under s. 163.370. A county or
29 municipality may delegate such powers to a community
30 redevelopment agency, created under s. 163.356, ~~The community~~
31 redevelopment powers assigned to a community redevelopment

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1 ~~agency created under s. 163.356 include all the powers~~
 2 ~~necessary or convenient to carry out and effectuate the~~
 3 ~~purposes and provisions of this part, except the following,~~
 4 which continue to vest in the governing body of the county or
 5 municipality:

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

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

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

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

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

20 (6) The power of eminent domain.

21 Section 9. Section 163.370, Florida Statutes, is
 22 amended to read:

23 163.370 Powers; counties and municipalities; community
 24 redevelopment agencies.--

25 (1) The state does not delegate the power of eminent
 26 domain to counties or municipalities for the purpose of
 27 preventing and eliminating slums and blight under this part;
 28 however, counties and municipalities may acquire property by
 29 eminent domain within a community redevelopment area for
 30 public uses and purposes as otherwise authorized by general
 31 law and as limited by s. 73.013.

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

5 (a) To make and execute contracts and other
 6 instruments necessary or convenient to the exercise of its
 7 powers under this part.~~†~~

8 (b) To disseminate slum clearance and community
 9 redevelopment information.~~†~~

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

13 1. Acquisition of a slum area or a blighted area or
 14 portion thereof.

15 2. Demolition and removal of buildings and
 16 improvements.

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

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

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

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1 6. Acquisition of real property in the community
 2 redevelopment area which, under the community redevelopment
 3 plan, is to be repaired or rehabilitated for dwelling use or
 4 related facilities, repair or rehabilitation of the structures
 5 for guidance purposes, and resale of the property.

6 7. Acquisition of any other real property in the
 7 community redevelopment area when necessary to eliminate
 8 unhealthful, unsanitary, or unsafe conditions; lessen density;
 9 eliminate obsolete or other uses detrimental to the public
 10 welfare; or otherwise to remove or prevent the spread of
 11 blight or deterioration or to provide land for needed public
 12 facilities.

13 8. Acquisition, without regard to any requirement that
 14 the area be a slum or blighted area, of air rights in an area
 15 consisting principally of land in highways, railway or subway
 16 tracks, bridge or tunnel entrances, or other similar
 17 facilities which have a blighting influence on the surrounding
 18 area and over which air rights sites are to be developed for
 19 the elimination of such blighting influences and for the
 20 provision of housing (and related facilities and uses)
 21 designed specifically for, and limited to, families and
 22 individuals of low or moderate income.

23 9. Acquisition of property in unincorporated enclaves
 24 surrounded by the boundaries of a community redevelopment area
 25 when it is determined necessary by the agency to accomplish
 26 the community redevelopment plan. Property already devoted to
 27 a public use may be acquired in like manner.

28 ~~10.9.~~ Construction of foundations and platforms
 29 necessary for the provision of air rights sites of housing
 30 (and related facilities and uses) designed specifically for,
 31 and limited to, families and individuals of low or moderate

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1 income.

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

18 (e) Within the community redevelopment area:

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

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

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

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

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

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

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

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

27 (g) To borrow money and to apply for and accept
28 advances, loans, grants, contributions, and any other form of
29 financial assistance from the Federal Government or the state,
30 county, or other public body or from any sources, public or
31 private, for the purposes of this part and to give such

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1 security as may be required and to enter into and carry out
 2 contracts or agreements in connection therewith; and to
 3 include in any contract for financial assistance with the
 4 Federal Government for or with respect to community
 5 redevelopment and related activities such conditions imposed
 6 pursuant to federal laws as the county or municipality deems
 7 reasonable and appropriate which are not inconsistent with the
 8 purposes of this part.

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

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

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

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

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

31 (j) To apply for, accept, and utilize grants of funds

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1 from the Federal Government for such purposes.

2 (k) To prepare plans for and assist in the relocation
3 of persons (including individuals, families, business
4 concerns, nonprofit organizations, and others) displaced from
5 a community redevelopment area and to make relocation payments
6 to or with respect to such persons for moving expenses and
7 losses of property for which reimbursement or compensation is
8 not otherwise made, including the making of such payments
9 financed by the Federal Government.

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

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

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

31 ~~(o) To exercise all or any part or combination of~~

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1 ~~powers herein granted or to elect to have such powers~~
2 ~~exercised by a community redevelopment agency.~~

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

5 ~~(3)(2)~~ The following projects may not be paid for or
6 financed by increment revenues:

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

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

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

28 ~~(4)(3)~~ With the approval of the governing body, a
29 community redevelopment agency may:

30 (a) Prior to approval of a community redevelopment
31 plan or approval of any modifications of the plan, acquire

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1 real property in a community redevelopment area, demolish and
2 remove any structures on the property, and pay all costs
3 related to the acquisition, demolition, or removal, including
4 any administrative or relocation expenses.

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

9 Section 10. Section 163.375, Florida Statutes, is
10 repealed.

11 Section 11. Section 163.380, Florida Statutes, is
12 amended to read:

13 163.380 Disposal of property in community
14 redevelopment area.--The disposal of property in a community
15 redevelopment area which is acquired by eminent domain is
16 subject to the limitations set forth in s. 73.013.

17 (1) Any county, municipality, or community
18 redevelopment agency may sell, lease, dispose of, or otherwise
19 transfer real property or any interest therein acquired by it
20 for community redevelopment in a community redevelopment area
21 to any private person, or may retain such property for public
22 use, and may enter into contracts with respect thereto for
23 residential, recreational, commercial, industrial,
24 educational, or other uses, in accordance with the community
25 redevelopment plan, subject to such covenants, conditions, and
26 restrictions, including covenants running with the land, as it
27 deems necessary or desirable to assist in preventing the
28 development or spread of future slums or blighted areas or to
29 otherwise carry out the purposes of this part. However, such
30 sale, lease, other transfer, or retention, and any agreement
31 relating thereto, may be made only after the approval of the

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1 community redevelopment plan by the governing body. The
 2 purchasers or lessees and their successors and assigns shall
 3 be obligated to devote such real property only to the uses
 4 specified in the community redevelopment plan and may be
 5 obligated to comply with such other requirements as the
 6 county, municipality, or community redevelopment agency may
 7 determine to be in the public interest, including the
 8 obligation to begin any improvements on such real property
 9 required by the community redevelopment plan within a
 10 reasonable time.

11 (2) Such real property or interest shall be sold,
 12 leased, otherwise transferred, or retained at a value
 13 determined to be in the public interest for uses in accordance
 14 with the community redevelopment plan and in accordance with
 15 such reasonable disposal procedures as any county,
 16 municipality, or community redevelopment agency may prescribe.
 17 In determining the value of real property as being in the
 18 public interest for uses in accordance with the community
 19 redevelopment plan, the county, municipality, or community
 20 redevelopment agency shall take into account and give
 21 consideration to the long-term benefits to be achieved by the
 22 county, municipality, or community redevelopment agency
 23 resulting from incurring short-term losses or costs in the
 24 disposal of such real property; the uses provided in such
 25 plan; the restrictions upon, and the covenants, conditions,
 26 and obligations assumed by, the purchaser or lessee or by the
 27 county, municipality, or community redevelopment agency
 28 retaining the property; and the objectives of such plan for
 29 the prevention of the recurrence of slum or blighted areas. In
 30 the event the value of such real property being disposed of is
 31 for less than the fair value, such disposition shall require

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1 the approval of the governing body, which approval may only be
2 given following a duly noticed public hearing. The county,
3 municipality, or community redevelopment agency may provide in
4 any instrument of conveyance to a private purchaser or lessee
5 that such purchaser or lessee is without power to sell, lease,
6 or otherwise transfer the real property without the prior
7 written consent of the county, municipality, or community
8 redevelopment agency until the purchaser or lessee has
9 completed the construction of any or all improvements which he
10 or she has obligated himself or herself to construct thereon.
11 Real property acquired by the county, municipality, or
12 community redevelopment agency which, in accordance with the
13 provisions of the community redevelopment plan, is to be
14 transferred shall be transferred as rapidly as feasible in the
15 public interest, consistent with the carrying out of the
16 provisions of the community redevelopment plan. Any contract
17 for such transfer and the community redevelopment plan, or
18 such part or parts of such contract or plan as the county,
19 municipality, or community redevelopment agency may determine,
20 may be recorded in the land records of the clerk of the
21 circuit court in such manner as to afford actual or
22 constructive notice thereof.

23 (3)(a) Prior to disposition of any real property or
24 interest therein in a community redevelopment area, any
25 county, municipality, or community redevelopment agency shall
26 give public notice of such disposition by publication in a
27 newspaper having a general circulation in the community, at
28 least 30 days prior to the execution of any contract to sell,
29 lease, or otherwise transfer real property and, prior to the
30 delivery of any instrument of conveyance with respect thereto
31 under the provisions of this section, invite proposals from,

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1 and make all pertinent information available to, private
2 redevelopers or any persons interested in undertaking to
3 redevelop or rehabilitate a community redevelopment area or
4 any part thereof. Such notice shall identify the area or
5 portion thereof and shall state that proposals must be made by
6 those interested within 30 days after the date of publication
7 of the notice and that such further information as is
8 available may be obtained at such office as is designated in
9 the notice. The county, municipality, or community
10 redevelopment agency shall consider all such redevelopment or
11 rehabilitation proposals and the financial and legal ability
12 of the persons making such proposals to carry them out; and
13 the county, municipality, or community redevelopment agency
14 may negotiate with any persons for proposals for the purchase,
15 lease, or other transfer of any real property acquired by it
16 in the community redevelopment area. The county, municipality,
17 or community redevelopment agency may accept such proposal as
18 it deems to be in the public interest and in furtherance of
19 the purposes of this part. Except in the case of a governing
20 body acting as the agency, as provided in s. 163.357, a
21 notification of intention to accept such proposal must be
22 filed with the governing body not less than 30 days prior to
23 any such acceptance. Thereafter, the county, municipality, or
24 community redevelopment agency may execute such contract in
25 accordance with the provisions of subsection (1) and deliver
26 deeds, leases, and other instruments and take all steps
27 necessary to effectuate such contract.

28 (b) Any county, municipality, or community
29 redevelopment agency that, pursuant to the provisions of this
30 section, has disposed of a real property project with a land
31 area in excess of 20 acres may acquire an expanded area that

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1 is immediately adjacent to the original project and less than
 2 35 percent of the land area of the original project, by
 3 purchase ~~or eminent domain~~ as provided in this chapter, and
 4 negotiate a disposition of such expanded area directly with
 5 the person who acquired the original project without complying
 6 with the disposition procedures established in paragraph (a),
 7 provided the county, municipality, or community redevelopment
 8 agency adopts a resolution making the following findings:

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

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

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

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

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

26 (6) Notwithstanding any provision of this section, if
 27 a community redevelopment area is established by the governing
 28 body for the redevelopment of property located on a closed
 29 military base within the governing body's boundaries, the
 30 procedures for disposition of real property within that
 31 community redevelopment area shall be prescribed by the

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1 governing body, and compliance with the other provisions of
2 this section shall not be required prior to the disposal of
3 real property.

4 Section 12. Section 166.401, Florida Statutes, is
5 amended to read:

6 166.401 Municipalities limited delegated power ~~Right~~
7 of eminent domain.--

8 (1) The power of eminent domain is preempted to the
9 state except as otherwise provided by general law. All
10 municipalities in the state are delegated limited authority to
11 ~~may~~ exercise the right and power of eminent domain; that is,
12 the right to appropriate property within the state, ~~except~~
13 ~~state or federal property,~~ for the uses or purposes authorized
14 pursuant to this part or as otherwise provided by general law.
15 However, no real property belonging to the United States, the
16 state, or any political subdivision of the state may be
17 acquired without its consent. The absolute fee simple title to
18 all property so taken and acquired shall vest in such
19 municipal corporation unless the municipality seeks to condemn
20 a particular right or estate in such property. The conveyance
21 of property taken by eminent domain is subject to the
22 limitations set forth in s. 73.013.

23 (2) Each municipality is further authorized to
24 exercise the eminent domain power granted by s. 337.27(1) to
25 the Department of Transportation; by s. 337.273, relating to
26 the protection of transportation corridors; and by s. 337.274,
27 relating to the right of entry onto property ~~to the Department~~
28 ~~of Transportation in s. 337.27(1) and the transportation~~
29 ~~corridor protection provisions of s. 337.273.~~

30 (3) When a municipality exercises the power of eminent
31 domain for an authorized use or purpose, it must do so in the

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1 manner provided for in chapters 73 and 74.

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

7 Section 13. Section 166.411, Florida Statutes, is
8 amended to read:

9 166.411 Eminent domain; uses or
10 purposes.--Municipalities are authorized to exercise the power
11 of eminent domain for the following uses or purposes:

12 (1) For a scheme or plan of drainage, ditching,
13 grading, filling, or other similar public improvement, if such
14 scheme or plan is deemed necessary or expedient for:

15 (a) The preservation of the public health; or
16 (b) Other good reasons connected with the public
17 welfare of the municipality. ~~For the proper and efficient~~
18 carrying into effect of any proposed scheme or plan of
19 drainage, ditching, grading, filling, or other public
20 improvement deemed necessary or expedient for the preservation
21 of the public health, or for other good reason connected in
22 anywise with the public welfare or the interests of the
23 municipality and the people thereof;

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

30 (3) For streets, roads, highways, bridges, sidewalks,
31 curbs, curb ramps, crosswalks, underpasses, and overpasses.

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1 ~~For streets, lanes, alleys, and ways;~~

2 (4) For public parks, squares, and grounds.

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

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

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

11 ~~(7)(8)~~ For the use of water pipes and for sewerage and
12 drainage purposes.

13 ~~(8)(9)~~ For laying wires and conduits. ~~underground;~~

14 ~~(9)(10)~~ For city buildings, waterworks, and ponds,
15 ~~and other municipal purposes which shall be coextensive with~~
16 ~~the powers of the municipality exercising the right of eminent~~
17 ~~domain; and~~

18 (10) For other uses or purposes of the same or similar
19 type as the enumerated uses or purposes in this section.

20 Section 14. This act does not apply to property for
21 which a petition of condemnation is filed under the authority
22 of the Community Redevelopment Act of 1969 on or before
23 September 30, 2006, if the following conditions are met:

24 (1) The parcel to be acquired is located within the
25 boundaries of a community redevelopment area, created pursuant
26 to s. 163.356, Florida Statutes, which exists as of March 7,
27 2006; and

28 (2) The notice and written offer, as evidenced by the
29 return receipt required pursuant to s. 73.015(1)(c), Florida
30 Statutes, were given to the fee owner of the parcel to be
31 acquired after September 7, 2005, and before March 7, 2006.

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1 Section 15. Except as otherwise expressly provided in
2 this act, this act shall take effect July 1, 2006, and applies
3 to all property for which a petition of condemnation is filed
4 pursuant to chapter 73, Florida Statutes, on or after that
5 date.

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7

8 ===== T I T L E A M E N D M E N T =====

9 And the title is amended as follows:

10 Delete everything before the enacting clause

11

12 and insert:

13

 A bill to be entitled

14

 An act relating to eminent domain; creating s.

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73.013, F.S.; restricting certain transfers of

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property taken by eminent domain to certain

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natural persons or private entities; amending

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73.021, F.S.; clarifying the burden of proof

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for a petition of condemnation; amending s.

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127.01, F.S.; preempting the power of eminent

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domain to the state except as otherwise

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delegated by general law; limiting the power of

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counties to use eminent domain; requiring

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consent from certain governmental entities in

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order to acquire property; providing that the

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conveyance of property acquired by eminent

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domain is subject to certain restrictions;

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enumerating certain authorized uses of eminent

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domain; prescribing the manner by which a

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county may exercise its power of eminent

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domain; amending s. 127.02, F.S.; requiring

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1 that a board of county commissioners adopt a
2 resolution in order to acquire a property
3 through the use of eminent domain; amending s.
4 163.335, F.S.; removing eminent domain from the
5 scope of findings and declarations of necessity
6 under the Community Redevelopment Act;
7 providing that the prevention and elimination
8 of slums and blight does not satisfy the
9 requirement under the State Constitution that a
10 taking be for a public purpose; amending s.
11 163.340, F.S.; conforming a cross-reference;
12 amending s. 163.345, F.S.; prescribing
13 limitations on the disposition of property
14 related to certain efforts to encourage the
15 participation of private enterprise in
16 community redevelopment; amending s. 163.358,
17 F.S.; clarifying the scope of the power of
18 community redevelopment by a county or
19 municipality and the authority and limitations
20 on delegation to a community redevelopment
21 agency; prohibiting the delegation of the power
22 of eminent domain to a community redevelopment
23 agency; amending s. 163.370, F.S.; clarifying
24 limitations on the exercise of eminent domain
25 in the context of community redevelopment;
26 deleting the authority to delegate the power of
27 eminent domain to a community redevelopment
28 agency; repealing s. 163.375, F.S., relating to
29 the authority of a county, municipality, or
30 community redevelopment agency to exercise the
31 power of eminent domain in connection with

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1 community redevelopment for the purpose of
2 preventing and eliminating slums and blight;
3 amending s. 163.380, F.S.; subjecting the
4 disposal of property acquired by eminent domain
5 within a community redevelopment area to
6 certain restrictions; eliminating the authority
7 to use eminent domain to acquire certain areas
8 adjacent to disposed property; amending s.
9 166.401, F.S.; preempting the power of eminent
10 domain to the state except as otherwise
11 delegated by general law; limiting the power of
12 municipalities to use eminent domain; providing
13 that the conveyance of property acquired by
14 eminent domain is subject to certain
15 restrictions; prescribing the manner for a
16 municipality to exercise the power of eminent
17 domain; requiring that the governing body of a
18 municipality adopt a resolution in order to
19 acquire a property through the use of eminent
20 domain; amending s. 166.411, F.S.; expanding
21 the authority of a municipality to use eminent
22 domain for purposes related to streets, lanes,
23 alleys, and ways; eliminating the authority of
24 a municipality to use eminent domain for the
25 abatement of nuisances; authorizing the use of
26 eminent domain for other uses and purposes of
27 the same or similar type as those specifically
28 enumerated; providing for application of the
29 act to petitions of condemnation filed on or
30 after the effective date of the act, with
31 certain exceptions; providing an effective

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1 date.

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