

1 the State Constitution that a taking be for a
2 public purpose; amending s. 163.340, F.S.;
3 conforming a cross-reference; amending s.
4 163.345, F.S.; prescribing limitations on the
5 disposition of property related to certain
6 efforts to encourage the participation of
7 private enterprise in community redevelopment;
8 amending s. 163.358, F.S.; clarifying the scope
9 of the power of community redevelopment by a
10 county or municipality and the authority and
11 limitations on delegation to a community
12 redevelopment agency; prohibiting the
13 delegation of the power of eminent domain to a
14 community redevelopment agency; amending s.
15 163.370, F.S.; clarifying limitations on the
16 exercise of eminent domain in the context of
17 community redevelopment; deleting the authority
18 to delegate the power of eminent domain to a
19 community redevelopment agency; repealing s.
20 163.375, F.S., relating to the authority of a
21 county, municipality, or community
22 redevelopment agency to exercise the power of
23 eminent domain in connection with community
24 redevelopment for the purpose of preventing and
25 eliminating slums and blight; amending s.
26 163.380, F.S.; subjecting the disposal of
27 property acquired by eminent domain within a
28 community redevelopment area to certain
29 restrictions; eliminating the authority to use
30 eminent domain to acquire certain areas
31 adjacent to disposed property; amending s.

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

26
27 Be It Enacted by the Legislature of the State of Florida:

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

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1 73.013 Conveyance of property taken by eminent
2 domain.--

3 (1) Notwithstanding any other provision of law,
4 including any charter provision, ordinance, statute, or
5 special act, if the state, any political subdivision as
6 defined in s. 1.01(8), or any other entity to which the power
7 of eminent domain is delegated files a petition of
8 condemnation on or after July 1, 2006, regarding a parcel of
9 real property in this state, ownership, lease, or control of
10 property acquired pursuant to such petition may not be
11 conveyed by the condemning authority or any other entity to a
12 natural person or private entity, except that ownership,
13 lease, or control of property acquired pursuant to such
14 petition may be conveyed to a natural person or private
15 entity:

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

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

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

27 (d) For use in providing public infrastructure;

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

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1 (f) After public notice and competitive bidding unless
2 otherwise provided by general law or special act, if the
3 property was owned and controlled by the condemning authority
4 or a governmental entity for less than 10 years after the
5 condemning authority acquired title to the property, the
6 condemning authority has shown that the property is no longer
7 needed for the use or purpose for which it was acquired, and
8 the owner from whom the property was taken by eminent domain
9 was given the opportunity to repurchase the property at the
10 price he or she received from the condemning authority;

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

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

17 (2) If ownership of property is conveyed to a natural
18 person or private entity pursuant to paragraph (1)(a),
19 paragraph (1)(b), paragraph (1)(c), paragraph (1)(d), or
20 paragraph (1)(e), and that natural person or private entity
21 retains ownership and control of the property for at least 10
22 years after acquiring title, the property may subsequently be
23 transferred, after public notice and competitive bidding
24 unless otherwise provided by general law or special act, to
25 another natural person or private entity without restriction.

26 Section 2. Section 73.021, Florida Statutes, is
27 amended to read:

28 73.021 Petition; contents; burden of proof;
29 public-purpose limitation.--Those having the right to exercise
30 the power of eminent domain may file a petition therefor in
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1 the circuit court of the county wherein the property lies,
2 which petition shall set forth:

3 (1) The authority under which and the public use or
4 purpose for which the property is to be acquired, and that the
5 property is reasonably necessary for that public use or
6 purpose. The condemning authority has the burden of showing
7 reasonable necessity and a public purpose or use. The public
8 interest must dominate any private gain. Notwithstanding any
9 other provision of law, including any charter provision,
10 ordinance, statute, or special act, taking private property
11 for the prevention and elimination of slums and blight does
12 not satisfy the public-purpose requirement of s. 6(a), Art. X
13 of the State Constitution;

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

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

21 (4) The names, places of residence, legal
22 disabilities, if any, and interests in the property of all
23 owners, lessees, mortgagees, judgment creditors, and
24 lienholders, so far as ascertainable by diligent search, and
25 all unknown persons having an interest in the property when
26 the petitioner has been unable to ascertain the identity of
27 such persons by diligent search and inquiry. If any interest
28 in the property, or lien thereon, belongs to the unsettled
29 estate of a decedent, the executor or administrator shall be
30 made a defendant without joining the devisee or heir; if a
31 trust estate, the trustee shall be made a defendant without

1 joining the cestui que trust. The court may appoint an
2 administrator ad litem to represent the estate of a deceased
3 person whose estate is not being administered, and a guardian
4 ad litem for all defendants who are infants or are under other
5 legal disabilities; and for defendants whose names or
6 addresses are unknown. A copy of the order of appointment
7 shall be served on the guardian ad litem at least 10 days
8 before trial unless he or she has entered an appearance;

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

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

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

25 Section 3. Section 127.01, Florida Statutes, is
26 amended to read:

27 127.01 Counties limited delegated power of eminent
28 domain; recreational purposes, ~~issue of necessity of taking.--~~

29 (1)(a) The power of eminent domain is preempted to the
30 state except as otherwise provided by general law or special
31 act. Each county of the state is delegated limited authority

1 to exercise the right and power of eminent domain; that is,
2 the right to appropriate property, for the uses or purposes
3 authorized under this section or as otherwise provided by
4 general law or special act ~~except state or federal, for any~~
5 ~~county purpose.~~ However, no real property belonging to the
6 United States, the state, or any political subdivision of the
7 state may be acquired without its consent. The absolute fee
8 simple title to all property so taken and acquired shall vest
9 in such county unless the county seeks to condemn a particular
10 right or estate in such property. The conveyance of property
11 taken by eminent domain is subject to the limitations set
12 forth in s. 73.013.

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

18 (2) Counties are authorized to exercise the power of
19 eminent domain for the following uses or purposes:

20 (a) For a scheme or plan of drainage, ditching,
21 grading, filling, or other similar public improvement, if such
22 scheme or plan is deemed necessary or expedient for:

- 23 1. The preservation of the public health; or
24 2. Other good reasons connected with the public
25 welfare of the county.

26 (b) Over railroads, traction and streetcar lines,
27 telephone and telegraph lines, all public and private streets
28 and highways, drainage districts, bridge districts, school
29 districts, or any other public or private lands whatsoever
30 necessary to enable a county or private company to accomplish
31 the following purposes:

- 1 1. To clean and improve street channels or other
2 bodies of water for sanitary purposes;
- 3 2. To provide a means for the regulation of the flow
4 of streams for sanitary purposes;
- 5 3. To provide water and alternative water supplies,
6 including, but not limited to, reclaimed water and water from
7 aquifer storage and recovery and desalination systems for
8 domestic, county, or industrial uses;
- 9 4. To provide for the collection and disposal of
10 sewage, including wastewater reuse and other liquid wastes;
- 11 5. To provide for the collection and disposal of
12 garbage;
- 13 6. To construct reservoirs, sewerage systems, trunk
14 sewers, intercepting sewers, pumping stations, wells, siphons,
15 intakes, pipelines, distribution systems, purification works,
16 collection systems, or treatment and disposal works that are
17 incidental to such purposes and to enable the accomplishment
18 of such purposes;
- 19 7. To construct airports, hospitals, jails, and golf
20 courses; to maintain, operate, and repair the same; and to
21 construct and operate in addition thereto all machinery and
22 equipment;
- 23 8. To construct, operate, and maintain gas plants and
24 distribution systems for domestic, county, and industrial
25 uses; and
- 26 9. To construct such other buildings and facilities as
27 may be required to properly and economically operate and
28 maintain the works necessary for fulfilling the purposes of
29 this paragraph.
- 30
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1 However, a private company or county may not construct any
2 system, work, project, or utility authorized to be constructed
3 under this paragraph if a system, work, project, or utility of
4 a similar character is being actually operated by a county,
5 municipality, or private company in the county, municipality,
6 or territory immediately adjacent thereto, unless such county,
7 municipality, or private company consents to such
8 construction. As used in this paragraph, the term "private
9 company" means a company or corporation organized for the
10 purposes contained in this paragraph and duly authorized under
11 the laws of the state to construct or operate water works
12 systems, sewerage systems, sewage treatment works, or garbage
13 collection and garbage disposal plants.

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

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

17 (e) For drainage, for raising or filling in land in
18 order to promote sanitation and healthfulness, and for the
19 taking of easements for the drainage of the land of one person
20 over and through the land of another.

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

23 (g) For the use of water pipes and for sewerage and
24 drainage purposes.

25 (h) For laying wires and conduits.

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

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

29 (3) Each county is further authorized to exercise the
30 eminent domain power granted by s. 337.27(1) to the Department
31 of Transportation; by s.337.273, relating to the protection of

1 transportation corridors; and by s. 337.274, relating to the
2 right of entry onto property.

3 ~~(4)(2)~~ However, no county has the right to condemn any
4 lands outside its own county boundaries for parks,
5 playgrounds, recreational centers, or other recreational
6 purposes. ~~In eminent domain proceedings, a county's burden of~~
7 ~~showing reasonable necessity for parks, playgrounds,~~
8 ~~recreational centers, or other types of recreational purposes~~
9 ~~shall be the same as the burden in other types of eminent~~
10 ~~domain proceedings.~~

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

14 Section 4. Section 127.02, Florida Statutes, is
15 amended to read:

16 127.02 County commissioners may authorize acquirement
17 of property by eminent domain for a use or purpose authorized
18 by general law or special act.--The board of county
19 commissioners may not exercise its power of eminent domain
20 unless the board adopts a resolution authorizing the
21 acquisition, by resolution, authorize the acquirement by
22 eminent domain of a property, real or personal, by eminent
23 domain for any county use or purpose authorized by general law
24 or special act designated in such resolution.

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

27 163.335 Findings and declarations of necessity.--

28 (3) It is further found and declared that the powers
29 conferred by this part are for public uses and purposes for
30 which public money may be expended ~~and the power of eminent~~
31 ~~domain~~ and police power exercised, and the necessity in the

1 public interest for the provisions herein enacted is ~~hereby~~
2 declared as a matter of legislative determination. However, it
3 is found and declared that the prevention and elimination of
4 slums and blight does not satisfy the public-purpose
5 requirement of s. 6(a), Art. X of the State Constitution.

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

8 163.340 Definitions.--The following terms, wherever
9 used or referred to in this part, have the following meanings:

10 (12) "Related activities" means:

11 (a) Planning work for the preparation of a general
12 neighborhood redevelopment plan or for the preparation or
13 completion of a communitywide plan or program pursuant to s.
14 163.365.

15 (b) The functions related to the acquisition and
16 disposal of real property pursuant to s. 163.370(4) ~~s.~~
17 ~~163.370(3)~~.

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

20 (d) The development of community policing innovations.

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

23 163.345 Encouragement of private enterprise.--

24 (1) Any county or municipality, to the greatest extent
25 it determines to be feasible in carrying out the provisions of
26 this part, shall afford maximum opportunity, consistent with
27 the sound needs of the county or municipality as a whole, to
28 the rehabilitation or redevelopment of the community
29 redevelopment area by private enterprise. Any county or
30 municipality shall give consideration to this objective in
31 exercising its powers under this part, including the

1 formulation of a workable program; the approval of community
2 redevelopment plans, communitywide plans or programs for
3 community redevelopment, and general neighborhood
4 redevelopment plans (consistent with the general plan of the
5 county or municipality); the development and implementation of
6 community policing innovations; the exercise of its zoning
7 powers; the enforcement of other laws, codes, and regulations
8 relating to the use of land and the use and occupancy of
9 buildings and improvements; the development of affordable
10 housing; the disposition of any property acquired, subject to
11 the limitations of s. 73.013; and the provision of necessary
12 public improvements.

13 Section 8. Section 163.358, Florida Statutes, is
14 amended to read:

15 163.358 Exercise of powers in carrying out community
16 redevelopment and related activities.--Each county and
17 municipality has all powers necessary or convenient to carry
18 out and effectuate the purposes and provisions of this part,
19 including those powers granted under s. 163.370. A county or
20 municipality may delegate such powers to a community
21 redevelopment agency, created under s. 163.356, The community
22 ~~redevelopment powers assigned to a community redevelopment~~
23 ~~agency created under s. 163.356 include all the powers~~
24 ~~necessary or convenient to carry out and effectuate the~~
25 ~~purposes and provisions of this part,~~ except the following,
26 which continue to vest in the governing body of the county or
27 municipality:

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

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

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

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

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

11 (6) The power of eminent domain.

12 Section 9. Section 163.370, Florida Statutes, is
13 amended to read:

14 163.370 Powers; counties and municipalities; community
15 redevelopment agencies.--

16 (1) The state does not delegate the power of eminent
17 domain to counties or municipalities for the purpose of
18 preventing and eliminating slums and blight under this part;
19 however, counties and municipalities may acquire property by
20 eminent domain within a community redevelopment area for
21 public uses and purposes as otherwise authorized by general
22 law or special act and as limited by s. 73.013.

23 ~~(2)(1)~~ Every county and municipality shall have all
24 the powers necessary or convenient to carry out and effectuate
25 the purposes and provisions of this part, including the
26 following powers in addition to others herein granted:

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

30 (b) To disseminate slum clearance and community
31 redevelopment information.†

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

4 1. Acquisition of a slum area or a blighted area or
5 portion thereof.

6 2. Demolition and removal of buildings and
7 improvements.

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

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

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

23 6. Acquisition of real property in the community
24 redevelopment area which, under the community redevelopment
25 plan, is to be repaired or rehabilitated for dwelling use or
26 related facilities, repair or rehabilitation of the structures
27 for guidance purposes, and resale of the property.

28 7. Acquisition of any other real property in the
29 community redevelopment area when necessary to eliminate
30 unhealthful, unsanitary, or unsafe conditions; lessen density;
31 eliminate obsolete or other uses detrimental to the public

1 welfare; or otherwise to remove or prevent the spread of
2 blight or deterioration or to provide land for needed public
3 facilities.

4 8. Acquisition, without regard to any requirement that
5 the area be a slum or blighted area, of air rights in an area
6 consisting principally of land in highways, railway or subway
7 tracks, bridge or tunnel entrances, or other similar
8 facilities which have a blighting influence on the surrounding
9 area and over which air rights sites are to be developed for
10 the elimination of such blighting influences and for the
11 provision of housing (and related facilities and uses)
12 designed specifically for, and limited to, families and
13 individuals of low or moderate income.

14 9. Acquisition of property in unincorporated enclaves
15 surrounded by the boundaries of a community redevelopment area
16 when it is determined necessary by the agency to accomplish
17 the community redevelopment plan. Property already devoted to
18 a public use may be acquired in like manner.

19 ~~10.9.~~ Construction of foundations and platforms
20 necessary for the provision of air rights sites of housing
21 (and related facilities and uses) designed specifically for,
22 and limited to, families and individuals of low or moderate
23 income.

24 (d) To provide, or to arrange or contract for, the
25 furnishing or repair by any person or agency, public or
26 private, of services, privileges, works, streets, roads,
27 public utilities, or other facilities for or in connection
28 with a community redevelopment; to install, construct, and
29 reconstruct streets, utilities, parks, playgrounds, and other
30 public improvements; and to agree to any conditions that it
31 deems reasonable and appropriate which are attached to federal

1 financial assistance and imposed pursuant to federal law
2 relating to the determination of prevailing salaries or wages
3 or compliance with labor standards, in the undertaking or
4 carrying out of a community redevelopment and related
5 activities, and to include in any contract let in connection
6 with such redevelopment and related activities provisions to
7 fulfill such of the conditions as it deems reasonable and
8 appropriate.

9 (e) Within the community redevelopment area:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (k) To prepare plans for and assist in the relocation
26 of persons (including individuals, families, business
27 concerns, nonprofit organizations, and others) displaced from
28 a community redevelopment area and to make relocation payments
29 to or with respect to such persons for moving expenses and
30 losses of property for which reimbursement or compensation is
31

1 not otherwise made, including the making of such payments
2 financed by the Federal Government.

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

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

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

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

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

29 (3)(2) The following projects may not be paid for or
30 financed by increment revenues:

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

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

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

22 ~~(4)(3)~~ With the approval of the governing body, a
23 community redevelopment agency may:

24 (a) Prior to approval of a community redevelopment
25 plan or approval of any modifications of the plan, acquire
26 real property in a community redevelopment area, demolish and
27 remove any structures on the property, and pay all costs
28 related to the acquisition, demolition, or removal, including
29 any administrative or relocation expenses.

30 (b) Assume the responsibility to bear any loss that
31 may arise as the result of the exercise of authority under

1 | this subsection, in the event that the real property is not
2 | made part of the community redevelopment area.

3 | Section 10. Section 163.375, Florida Statutes, is
4 | repealed.

5 | Section 11. Section 163.380, Florida Statutes, is
6 | amended to read:

7 | 163.380 Disposal of property in community
8 | redevelopment area.--The disposal of property in a community
9 | redevelopment area which is acquired by eminent domain is
10 | subject to the limitations set forth in s. 73.013.

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

1 determine to be in the public interest, including the
2 obligation to begin any improvements on such real property
3 required by the community redevelopment plan within a
4 reasonable time.

5 (2) Such real property or interest shall be sold,
6 leased, otherwise transferred, or retained at a value
7 determined to be in the public interest for uses in accordance
8 with the community redevelopment plan and in accordance with
9 such reasonable disposal procedures as any county,
10 municipality, or community redevelopment agency may prescribe.
11 In determining the value of real property as being in the
12 public interest for uses in accordance with the community
13 redevelopment plan, the county, municipality, or community
14 redevelopment agency shall take into account and give
15 consideration to the long-term benefits to be achieved by the
16 county, municipality, or community redevelopment agency
17 resulting from incurring short-term losses or costs in the
18 disposal of such real property; the uses provided in such
19 plan; the restrictions upon, and the covenants, conditions,
20 and obligations assumed by, the purchaser or lessee or by the
21 county, municipality, or community redevelopment agency
22 retaining the property; and the objectives of such plan for
23 the prevention of the recurrence of slum or blighted areas. In
24 the event the value of such real property being disposed of is
25 for less than the fair value, such disposition shall require
26 the approval of the governing body, which approval may only be
27 given following a duly noticed public hearing. The county,
28 municipality, or community redevelopment agency may provide in
29 any instrument of conveyance to a private purchaser or lessee
30 that such purchaser or lessee is without power to sell, lease,
31 or otherwise transfer the real property without the prior

1 written consent of the county, municipality, or community
2 redevelopment agency until the purchaser or lessee has
3 completed the construction of any or all improvements which he
4 or she has obligated himself or herself to construct thereon.
5 Real property acquired by the county, municipality, or
6 community redevelopment agency which, in accordance with the
7 provisions of the community redevelopment plan, is to be
8 transferred shall be transferred as rapidly as feasible in the
9 public interest, consistent with the carrying out of the
10 provisions of the community redevelopment plan. Any contract
11 for such transfer and the community redevelopment plan, or
12 such part or parts of such contract or plan as the county,
13 municipality, or community redevelopment agency may determine,
14 may be recorded in the land records of the clerk of the
15 circuit court in such manner as to afford actual or
16 constructive notice thereof.

17 (3)(a) Prior to disposition of any real property or
18 interest therein in a community redevelopment area, any
19 county, municipality, or community redevelopment agency shall
20 give public notice of such disposition by publication in a
21 newspaper having a general circulation in the community, at
22 least 30 days prior to the execution of any contract to sell,
23 lease, or otherwise transfer real property and, prior to the
24 delivery of any instrument of conveyance with respect thereto
25 under the provisions of this section, invite proposals from,
26 and make all pertinent information available to, private
27 redevelopers or any persons interested in undertaking to
28 redevelop or rehabilitate a community redevelopment area or
29 any part thereof. Such notice shall identify the area or
30 portion thereof and shall state that proposals must be made by
31 those interested within 30 days after the date of publication

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

22 | (b) Any county, municipality, or community
23 | redevelopment agency that, pursuant to the provisions of this
24 | section, has disposed of a real property project with a land
25 | area in excess of 20 acres may acquire an expanded area that
26 | is immediately adjacent to the original project and less than
27 | 35 percent of the land area of the original project, by
28 | purchase ~~or eminent domain~~ as provided in this chapter, and
29 | negotiate a disposition of such expanded area directly with
30 | the person who acquired the original project without complying
31 | with the disposition procedures established in paragraph (a),

1 provided the county, municipality, or community redevelopment
2 agency adopts a resolution making the following findings:

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

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

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

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

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

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

29 Section 12. Section 166.401, Florida Statutes, is
30 amended to read:

31

1 166.401 Municipalities limited delegated power ~~Right~~
2 of eminent domain.--

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

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

26 (3) When a municipality exercises the power of eminent
27 domain for an authorized use or purpose, it must do so in the
28 manner provided for in chapters 73 and 74.

29 (4) The local governing body of a municipality may not
30 exercise its power of eminent domain unless the governing body
31 adopts a resolution authorizing the acquisition of a property,

1 real or personal, by eminent domain for any authorized
2 municipal use or purpose.

3 Section 13. Section 166.411, Florida Statutes, is
4 amended to read:

5 166.411 Eminent domain; uses or
6 purposes.--Municipalities are authorized to exercise the power
7 of eminent domain for the following uses or purposes:

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

11 (a) The preservation of the public health; or

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

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

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

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

29 (4) For public parks, squares, and grounds.†

30 (5) For drainage, for raising or filling in land in
31 order to promote sanitation and healthfulness, and for the

1 taking of easements for the drainage of the land of one person
2 over and through the land of another.†

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

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

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

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

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

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

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

20 (1) The parcel to be acquired is located within the
21 boundaries of a community redevelopment area, created pursuant
22 to s. 163.356, Florida Statutes, which exists as of March 7,
23 2006; and

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

28 Section 15. Except as otherwise expressly provided in
29 this act, this act shall take effect July 1, 2006, and applies
30 to all property for which a petition of condemnation is filed
31

1 pursuant to chapter 73, Florida Statutes, on or after that
2 date.

3
4 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
5 COMMITTEE SUBSTITUTE FOR
6 Senate Bill 2168

7 Creates a new section of Florida Statutes that provides,
8 notwithstanding any other provision of law, for limitations on
9 the conveyance of property acquired by eminent domain with
10 certain exceptions, including an exception to deal with
11 disposition of surplus property.

12 Clarifies that the condemning authority has the burden of
13 showing reasonable necessity and a public purpose or use.

14 Provides in a general eminent domain statute that the
15 prevention and elimination of slums and blight does not
16 satisfy the public purpose requirement of the Takings Clause
17 of the State Constitution.

18 Expands the enumerated list of authorized public purposes or
19 uses in the general eminent domain statute for counties to
20 substantially conform it to the authorized public purposes or
21 uses in the general eminent domain statute for municipalities.

22 Clarifies in the "powers" section of the Community
23 Redevelopment Act that eminent domain may be exercised for the
24 traditional-type uses and purposes authorized by law within a
25 community redevelopment area, but it may not be delegated to a
26 community redevelopment agency.

27 Repeals the "Eminent Domain" section of the Community
28 Redevelopment Act.

29 Provides that the act will take effect July 1, 2006, and
30 applies to all property for which a petition of condemnation
31 is filed on or after that date with certain exceptions.