

FOR CONSIDERATION By the Committee on Judiciary

590-1693B-06

1                                           A bill to be entitled  
2           An act relating to eminent domain; amending s.  
3           127.01, F.S.; preempting the power of eminent  
4           domain to the state except as otherwise  
5           provided by law; limiting the power of counties  
6           to use eminent domain; requiring consent to  
7           acquire property from certain governmental  
8           entities; providing that property acquired by  
9           eminent domain may not be transferred to  
10          private ownership except in certain  
11          circumstances; enumerating authorized uses of  
12          eminent domain; prescribing the manner by which  
13          a county may exercise its power of eminent  
14          domain; amending s. 127.02, F.S.; requiring  
15          that a board of county commissioners adopt a  
16          resolution in order to acquire a property  
17          through the use of eminent domain; amending s.  
18          163.335, F.S.; removing eminent domain from the  
19          scope of findings and declarations of necessity  
20          under the Community Redevelopment Act; amending  
21          s. 163.345, F.S.; excluding property acquired  
22          by eminent domain from certain efforts to  
23          encourage the participation of private  
24          enterprise in community redevelopment; amending  
25          s. 163.370, F.S.; limiting the power of  
26          municipalities and counties to transfer to  
27          private ownership property acquired by eminent  
28          domain; eliminating the authority of  
29          municipalities and counties to enter certain  
30          buildings or property in community  
31          redevelopment areas; limiting the authority of

1 a county or municipality to use the power of  
2 eminent domain within a community redevelopment  
3 area; amending s. 163.375, F.S.; limiting the  
4 authority of a county, municipality, or  
5 community redevelopment agency to exercise the  
6 power of eminent domain in connection with  
7 community redevelopment; eliminating provisions  
8 regarding the admissibility of evidence in  
9 certain eminent domain proceedings; amending s.  
10 163.380, F.S.; restricting the disposal of  
11 property acquired by eminent domain within a  
12 community redevelopment area; eliminating the  
13 authority to use eminent domain to acquire  
14 certain areas adjacent to disposed property;  
15 amending s. 166.401, F.S.; preempting the power  
16 of eminent domain to the state except as  
17 otherwise provided by law; limiting the power  
18 of municipalities to use eminent domain;  
19 providing that property acquired by eminent  
20 domain may not be transferred to private  
21 ownership except in certain circumstances;  
22 prescribing the manner for a municipality to  
23 exercise the power of eminent domain; requiring  
24 that the governing body of a municipality adopt  
25 a resolution in order to acquire a property  
26 through the use of eminent domain; amending s.  
27 166.411, F.S.; eliminating the authority of  
28 municipalities to use eminent domain for the  
29 abatement of nuisances; limiting the  
30 authorization to use eminent domain for certain  
31 municipal purposes; providing for application

1 of the act to pending eminent domain  
2 proceedings and appeals; providing an effective  
3 date.  
4

5 Be It Enacted by the Legislature of the State of Florida:  
6

7 Section 1. Section 127.01, Florida Statutes, is  
8 amended to read:

9 127.01 Counties limited delegated power of eminent  
10 domain; recreational purposes, ~~issue of necessity of taking.--~~

11 ~~(1)(a) The power of eminent domain is preempted to the~~  
12 ~~state except as otherwise provided by law.~~ Each county of the  
13 state is delegated limited authority to exercise the right and  
14 power of eminent domain; that is, the right to appropriate  
15 property, for the uses or purposes authorized under this  
16 ~~section except state or federal, for any county purpose.~~  
17 However, no real property belonging to the United States, the  
18 state, or any political subdivision of the state may be  
19 acquired without its consent. The absolute fee simple title to  
20 all property so taken and acquired shall vest in such county  
21 unless the county seeks to condemn a particular right or  
22 estate in such property. Property acquired by the power of  
23 eminent domain may not be transferred to private ownership  
24 except as necessary to accomplish a purpose authorized in  
25 subsection (2).

26 ~~(b) Each county is further authorized to exercise the~~  
27 ~~eminent domain power granted to the Department of~~  
28 ~~Transportation by s. 337.27(1), the transportation corridor~~  
29 ~~protection provisions of s. 337.273, and the right of entry~~  
30 ~~onto property pursuant to s. 337.274.~~  
31

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

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

9           (b) Over railroads, traction and streetcar lines,  
10 telephone and telegraph lines, all public and private streets  
11 and highways, drainage districts, bridge districts, school  
12 districts, or any other public or private lands whatsoever  
13 necessary to enable the accomplishment of the purpose of  
14 county public works;

15           (c) For streets, lanes, alleys, and ways;

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 underground; and

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

27           (3) Each county is further authorized to exercise the  
28 eminent domain power granted by s. 337.27(1) to the Department  
29 of Transportation; by s.337.273, relating to the protection of  
30 transportation corridors; and by s. 337.274, relating to the  
31 right of entry onto property.

1           ~~(4)(2)~~ However, no county has the right to condemn any  
2 lands outside its own county boundaries for parks,  
3 playgrounds, recreational centers, or other recreational  
4 purposes. ~~In eminent domain proceedings, a county's burden of~~  
5 ~~showing reasonable necessity for parks, playgrounds,~~  
6 ~~recreational centers, or other types of recreational purposes~~  
7 ~~shall be the same as the burden in other types of eminent~~  
8 ~~domain proceedings.~~

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

12           Section 2. Section 127.02, Florida Statutes, is  
13 amended to read:

14           127.02 County commissioners may authorize acquirement  
15 of property by eminent domain for an authorized use or  
16 purpose.--The board of county commissioners may not exercise  
17 its power of eminent domain unless the board adopts a  
18 resolution authorizing the acquisition, by resolution,  
19 ~~authorize the acquirement by eminent domain~~ of a property,  
20 real or personal, by eminent domain for any county use or  
21 purpose authorized by law designated in such resolution.

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

24           163.335 Findings and declarations of necessity.--

25           (3) It is further found and declared that the powers  
26 conferred by this part are for public uses and purposes for  
27 which public money may be expended ~~and the power of eminent~~  
28 ~~domain~~ and police power exercised, and the necessity in the  
29 public interest for the provisions herein enacted is ~~hereby~~  
30 declared as a matter of legislative determination.  
31

1 Section 4. Subsection (1) of section 163.345, Florida  
2 Statutes, is amended to read:

3 163.345 Encouragement of private enterprise.--

4 (1) Any county or municipality, to the greatest extent  
5 it determines to be feasible in carrying out the provisions of  
6 this part, shall afford maximum opportunity, consistent with  
7 the sound needs of the county or municipality as a whole, to  
8 the rehabilitation or redevelopment of the community  
9 redevelopment area by private enterprise. Any county or  
10 municipality shall give consideration to this objective in  
11 exercising its powers under this part, including the  
12 formulation of a workable program; the approval of community  
13 redevelopment plans, communitywide plans or programs for  
14 community redevelopment, and general neighborhood  
15 redevelopment plans (consistent with the general plan of the  
16 county or municipality); the development and implementation of  
17 community policing innovations; the exercise of its zoning  
18 powers; the enforcement of other laws, codes, and regulations  
19 relating to the use of land and the use and occupancy of  
20 buildings and improvements; the development of affordable  
21 housing; the disposition of any property not acquired by  
22 eminent domain; and the provision of necessary public  
23 improvements.

24 Section 5. Subsection (1) of section 163.370, Florida  
25 Statutes, is amended to read:

26 163.370 Powers; counties and municipalities; community  
27 redevelopment agencies.--

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

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

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

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

9 1. Acquisition of a slum area or a blighted area or  
10 portion thereof.

11 2. Demolition and removal of buildings and  
12 improvements.

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

21 4. Disposition of any property acquired in the  
22 community redevelopment area at its fair value for uses in  
23 accordance with the community redevelopment plan; however, any  
24 property acquired by the power of eminent domain may not be  
25 transferred to private ownership except as necessary to  
26 accomplish a purpose authorized under s. 127.01(2) or s.  
27 166.411.

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.

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; however,  
6 any property acquired by the power of eminent domain may not  
7 be transferred to private ownership except as necessary to  
8 accomplish a purpose authorized under s. 127.01(2) or s.  
9 166.411.

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

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

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

1           ~~10.9.~~ Construction of foundations and platforms  
2 necessary for the provision of air rights sites of housing  
3 (and related facilities and uses) designed specifically for,  
4 and limited to, families and individuals of low or moderate  
5 income.

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

22           (e) Within the community redevelopment area:

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

28           ~~1.2.~~ To acquire by purchase;i lease;i option;i gift;i  
29 grant;i bequest;i devise; or eminent domain, as authorized  
30 under chapter 127 or chapter 166, ~~or otherwise~~ any real  
31 property (or personal property for its administrative

1 purposes), together with any improvements thereon; except that  
2 a community redevelopment agency may not exercise any power of  
3 eminent domain unless the exercise has been specifically  
4 approved by the governing body of the county or municipality  
5 which established the agency.

6 ~~2.3.~~ To hold, improve, clear, or prepare for  
7 redevelopment any such property.

8 ~~3.4.~~ To mortgage, pledge, hypothecate, or otherwise  
9 encumber or dispose of any real property; however, any  
10 property acquired by the power of eminent domain may not be  
11 transferred to private ownership except as necessary to  
12 accomplish a purpose authorized under s. 127.01(2) or s.  
13 166.411.

14 ~~4.5.~~ To insure or provide for the insurance of any  
15 real or personal property or operations of the county or  
16 municipality against any risks or hazards, including the power  
17 to pay premiums on any such insurance.

18 ~~5.6.~~ To enter into any contracts necessary to  
19 effectuate the purposes of this part.

20 ~~6.7.~~ To solicit requests for proposals for  
21 redevelopment of parcels of real property contemplated by a  
22 community redevelopment plan to be acquired for redevelopment  
23 purposes by a community redevelopment agency and, as a result  
24 of such requests for proposals, to advertise for the  
25 disposition of such real property to private persons pursuant  
26 to s. 163.380 prior to acquisition of such real property by  
27 the community redevelopment agency; however, any property  
28 acquired by the power of eminent domain may not be transferred  
29 to private ownership except as necessary to accomplish a  
30 purpose authorized under s. 127.01(2) or s. 166.411.

31

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

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

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

28 1. Plans for carrying out a program of voluntary or  
29 compulsory repair and rehabilitation of buildings and  
30 improvements.  
31

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

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

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

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

16           (k) To prepare plans for and assist in the relocation  
17 of persons (including individuals, families, business  
18 concerns, nonprofit organizations, and others) displaced from  
19 a community redevelopment area and to make relocation payments  
20 to or with respect to such persons for moving expenses and  
21 losses of property for which reimbursement or compensation is  
22 not otherwise made, including the making of such payments  
23 financed by the Federal Government.

24           (l) To appropriate such funds and make such  
25 expenditures as are necessary to carry out the purposes of  
26 this part; to zone or rezone any part of the county or  
27 municipality or make exceptions from building regulations; and  
28 to enter into agreements with a housing authority, which  
29 agreements may extend over any period, notwithstanding any  
30 provision or rule of law to the contrary, respecting action to  
31

1 be taken by such county or municipality pursuant to any of the  
2 powers granted by this part.

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

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

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

18 (p) To develop and implement community policing  
19 innovations.

20 Section 6. Section 163.375, Florida Statutes, is  
21 amended to read:

22 163.375 Eminent domain.--

23 (1) Any county or municipality, or any community  
24 redevelopment agency pursuant to specific approval of the  
25 governing body of the county or municipality which established  
26 the agency, as provided by any county or municipal ordinance,  
27 may use the power of eminent domain to acquire any interest in  
28 real property as authorized under chapter 127 or chapter 166  
29 ~~has the right to acquire by condemnation any interest in real~~  
30 ~~property, including a fee simple title thereto, which it deems~~  
31 ~~necessary for, or in connection with, community redevelopment~~

1 ~~and related activities under this part. Any county or~~  
2 ~~municipality, or any community redevelopment agency pursuant~~  
3 ~~to specific approval by the governing body of the county or~~  
4 ~~municipality which established the agency, as provided by any~~  
5 ~~county or municipal ordinance may exercise the power of~~  
6 ~~eminent domain in the manner provided in chapters 73 and 74~~  
7 ~~and acts amendatory thereof or supplementary thereto, or it~~  
8 ~~may exercise the power of eminent domain in the manner now or~~  
9 ~~which may be hereafter provided by any other statutory~~  
10 ~~provision for the exercise of the power of eminent domain.~~  
11 ~~Property in unincorporated enclaves surrounded by the~~  
12 ~~boundaries of a community redevelopment area may be acquired~~  
13 ~~when it is determined necessary by the agency to accomplish~~  
14 ~~the community redevelopment plan. Property already devoted to~~  
15 ~~a public use may be acquired in like manner. However, no real~~  
16 ~~property belonging to the United States, the state, or any~~  
17 ~~political subdivision of the state may be acquired without its~~  
18 ~~consent.~~

19 ~~(2) In any proceeding to fix or assess compensation~~  
20 ~~for damages for the taking of property, or any interest~~  
21 ~~therein, through the exercise of the power of eminent domain~~  
22 ~~or condemnation, evidence or testimony bearing upon the~~  
23 ~~following matters shall be admissible and shall be considered~~  
24 ~~in fixing such compensation or damages in addition to evidence~~  
25 ~~or testimony otherwise admissible:~~

26 ~~(a) Any use, condition, occupancy, or operation of~~  
27 ~~such property, which is unlawful or violative of, or subject~~  
28 ~~to elimination, abatement, prohibition, or correction under,~~  
29 ~~any law, ordinance, or regulatory measure of the state,~~  
30 ~~county, municipality, or other political subdivision, or any~~  
31 ~~agency thereof, in which such property is located, as being~~

1 ~~unsafe, substandard, unsanitary, or otherwise contrary to the~~  
2 ~~public health, safety, morals, or welfare.~~

3 ~~(b) The effect on the value of such property of any~~  
4 ~~such use, condition, occupancy, or operation or of the~~  
5 ~~elimination, abatement, prohibition, or correction of any such~~  
6 ~~use, condition, occupancy, or operation.~~

7 ~~(3) The foregoing testimony and evidence shall be~~  
8 ~~admissible notwithstanding that no action has been taken by~~  
9 ~~any public body or public officer toward the abatement,~~  
10 ~~prohibition, elimination, or correction of any such use,~~  
11 ~~condition, occupancy, or operation. Testimony or evidence~~  
12 ~~that any public body or public officer charged with the duty~~  
13 ~~or authority so to do has rendered, made, or issued any~~  
14 ~~judgment, decree, determination, or order for the abatement,~~  
15 ~~prohibition, elimination, or correction of any such use,~~  
16 ~~condition, occupancy, or operation shall be admissible and~~  
17 ~~shall be prima facie evidence of the existence and character~~  
18 ~~of such use, condition, or operation.~~

19 Section 7. Section 163.380, Florida Statutes, is  
20 amended to read:

21 163.380 Disposal of property in community  
22 redevelopment area.--

23 (1) Any county, municipality, or community  
24 redevelopment agency may sell, lease, dispose of, or otherwise  
25 transfer real property or any interest therein acquired by it  
26 for community redevelopment in a community redevelopment area  
27 to any private person, or may retain such property for public  
28 use, and may enter into contracts with respect thereto for  
29 residential, recreational, commercial, industrial,  
30 educational, or other uses, in accordance with the community  
31 redevelopment plan, subject to such covenants, conditions, and

1 | restrictions, including covenants running with the land, as it  
2 | deems necessary or desirable to assist in preventing the  
3 | development or spread of future slums or blighted areas or to  
4 | otherwise carry out the purposes of this part. However, such  
5 | sale, lease, other transfer, or retention, and any agreement  
6 | relating thereto, may be made only after the approval of the  
7 | community redevelopment plan by the governing body. The  
8 | purchasers or lessees and their successors and assigns shall  
9 | be obligated to devote such real property only to the uses  
10 | specified in the community redevelopment plan and may be  
11 | obligated to comply with such other requirements as the  
12 | county, municipality, or community redevelopment agency may  
13 | determine to be in the public interest, including the  
14 | obligation to begin any improvements on such real property  
15 | required by the community redevelopment plan within a  
16 | reasonable time. Notwithstanding any provision to the contrary  
17 | in this subsection, any property acquired by the power of  
18 | eminent domain may not be transferred to private ownership  
19 | except as necessary to accomplish a purpose authorized under  
20 | s. 127.01(2) or s. 166.411.

21 |         (2) Such real property or interest shall be sold,  
22 | leased, otherwise transferred, or retained at a value  
23 | determined to be in the public interest for uses in accordance  
24 | with the community redevelopment plan and in accordance with  
25 | such reasonable disposal procedures as any county,  
26 | municipality, or community redevelopment agency may prescribe;  
27 | however, any property acquired by the power of eminent domain  
28 | may not be transferred to private ownership except as  
29 | necessary to accomplish a purpose authorized under s.  
30 | 127.01(2) or s. 166.411. In determining the value of real  
31 | property as being in the public interest for uses in

1 accordance with the community redevelopment plan, the county,  
2 municipality, or community redevelopment agency shall take  
3 into account and give consideration to the long-term benefits  
4 to be achieved by the county, municipality, or community  
5 redevelopment agency resulting from incurring short-term  
6 losses or costs in the disposal of such real property; the  
7 uses provided in such plan; the restrictions upon, and the  
8 covenants, conditions, and obligations assumed by, the  
9 purchaser or lessee or by the county, municipality, or  
10 community redevelopment agency retaining the property; and the  
11 objectives of such plan for the prevention of the recurrence  
12 of slum or blighted areas. In the event the value of such  
13 real property being disposed of is for less than the fair  
14 value, such disposition shall require the approval of the  
15 governing body, which approval may only be given following a  
16 duly noticed public hearing. The county, municipality, or  
17 community redevelopment agency may provide in any instrument  
18 of conveyance to a private purchaser or lessee that such  
19 purchaser or lessee is without power to sell, lease, or  
20 otherwise transfer the real property without the prior written  
21 consent of the county, municipality, or community  
22 redevelopment agency until the purchaser or lessee has  
23 completed the construction of any or all improvements which he  
24 or she has obligated himself or herself to construct thereon.  
25 Real property acquired by the county, municipality, or  
26 community redevelopment agency which, in accordance with the  
27 provisions of the community redevelopment plan, is to be  
28 transferred shall be transferred as rapidly as feasible in the  
29 public interest, consistent with the carrying out of the  
30 provisions of the community redevelopment plan. Any contract  
31 for such transfer and the community redevelopment plan, or

1 such part or parts of such contract or plan as the county,  
2 municipality, or community redevelopment agency may determine,  
3 may be recorded in the land records of the clerk of the  
4 circuit court in such manner as to afford actual or  
5 constructive notice thereof.

6 (3)(a) Prior to disposition of any real property or  
7 interest therein in a community redevelopment area, any  
8 county, municipality, or community redevelopment agency shall  
9 give public notice of such disposition by publication in a  
10 newspaper having a general circulation in the community, at  
11 least 30 days prior to the execution of any contract to sell,  
12 lease, or otherwise transfer real property and, prior to the  
13 delivery of any instrument of conveyance with respect thereto  
14 under the provisions of this section, invite proposals from,  
15 and make all pertinent information available to, private  
16 redevelopers or any persons interested in undertaking to  
17 redevelop or rehabilitate a community redevelopment area or  
18 any part thereof. Such notice shall identify the area or  
19 portion thereof and shall state that proposals must be made by  
20 those interested within 30 days after the date of publication  
21 of the notice and that such further information as is  
22 available may be obtained at such office as is designated in  
23 the notice. The county, municipality, or community  
24 redevelopment agency shall consider all such redevelopment or  
25 rehabilitation proposals and the financial and legal ability  
26 of the persons making such proposals to carry them out; and  
27 the county, municipality, or community redevelopment agency  
28 may negotiate with any persons for proposals for the purchase,  
29 lease, or other transfer of any real property acquired by it  
30 in the community redevelopment area. The county,  
31 municipality, or community redevelopment agency may accept

1 such proposal as it deems to be in the public interest and in  
2 furtherance of the purposes of this part. Except in the case  
3 of a governing body acting as the agency, as provided in s.  
4 163.357, a notification of intention to accept such proposal  
5 must be filed with the governing body not less than 30 days  
6 prior to any such acceptance. Thereafter, the county,  
7 municipality, or community redevelopment agency may execute  
8 such contract in accordance with the provisions of subsection  
9 (1) and deliver deeds, leases, and other instruments and take  
10 all steps necessary to effectuate such contract.

11 (b) Any county, municipality, or community  
12 redevelopment agency that, pursuant to the provisions of this  
13 section, has disposed of a real property project with a land  
14 area in excess of 20 acres may acquire an expanded area that  
15 is immediately adjacent to the original project and less than  
16 35 percent of the land area of the original project, by  
17 purchase ~~or eminent domain~~ as provided in this chapter, and  
18 negotiate a disposition of such expanded area directly with  
19 the person who acquired the original project without complying  
20 with the disposition procedures established in paragraph (a),  
21 provided the county, municipality, or community redevelopment  
22 agency adopts a resolution making the following findings:

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

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

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

29 (4) Any county, municipality, or community  
30 redevelopment agency may temporarily operate and maintain real  
31 property acquired by it in a community redevelopment area for

1 or in connection with a community redevelopment plan pending  
2 the disposition of the property as authorized in this part,  
3 without regard to the provisions of subsection (1), for such  
4 uses and purposes as may be deemed desirable, even though not  
5 in conformity with the community redevelopment plan.

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

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

18 Section 8. Section 166.401, Florida Statutes, is  
19 amended to read:

20 166.401 Municipalities limited delegated power ~~Right~~  
21 of eminent domain.--

22 (1) The power of eminent domain is preempted to the  
23 state except as otherwise provided by law. All municipalities  
24 in the state are delegated limited authority to ~~may~~ exercise  
25 the right and power of eminent domain; that is, the right to  
26 appropriate property within the state, ~~except state or federal~~  
27 ~~property,~~ for the uses or purposes authorized pursuant to this  
28 part. However, no real property belonging to the United  
29 States, the state, or any political subdivision of the state  
30 may be acquired without its consent. The absolute fee simple  
31 title to all property so taken and acquired shall vest in such

1 municipal corporation unless the municipality seeks to condemn  
2 a particular right or estate in such property. Property  
3 acquired by the power of eminent domain may not be transferred  
4 to private ownership except as necessary to accomplish a  
5 purpose authorized in this part.

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

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

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

21 Section 9. Section 166.411, Florida Statutes, is  
22 amended to read:

23 166.411 Eminent domain; uses or  
24 purposes.--Municipalities are authorized to exercise the power  
25 of eminent domain for the following uses or purposes:

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

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

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

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

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

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

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

17 ~~(7)(8)~~ (8) For the use of water pipes and for sewerage and  
18 drainage purposes;

19 ~~(8)(9)~~ (9) For laying wires and conduits underground; and

20 ~~(9)(10)~~ (10) For city buildings, waterworks, and ponds, ~~and~~  
21 ~~and other municipal purposes which shall be coextensive with~~  
22 ~~the powers of the municipality exercising the right of eminent~~  
23 ~~domain; and~~

24 Section 10. This act shall apply to all pending  
25 eminent proceedings and all pending appeals of eminent domain  
26 proceedings.

27 Section 11. This act shall take effect upon becoming a  
28 law.

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SENATE SUMMARY

Revises various provisions of law governing the exercise of the power of eminent domain by counties, municipalities, and community redevelopment agencies. Specifies that the power of eminent domain is preempted by the state except as otherwise provided by law. Prohibits the transfer of property to private ownership if it was acquired by the use of eminent domain. Requires that the governing body of a county or municipality adopt a resolution in order to exercise the power of eminent domain. Eliminates authorization for a municipality to use eminent domain to abate nuisances. (See bill for details.)

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