

By Senator Saunders

37-91-06

1 A bill to be entitled
2 An act relating to limitations on the use of
3 the power of eminent domain; providing a
4 definition; prohibiting, under certain
5 conditions, a state agency, political
6 subdivision, or corporation acting on behalf of
7 a state agency or political subdivision from
8 taking private property through the use of
9 eminent domain; providing exemptions from the
10 prohibition; providing an effective date.

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

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14 Section 1. Limitation on the use of eminent domain to
15 benefit private parties or for purposes of economic
16 development.--

17 (1) As used in this section, the term "governmental
18 entity" means a state agency, a political subdivision, or a
19 corporation created by and acting on behalf of a state agency
20 or political subdivision.

21 (2) A governmental entity may not take private
22 property through the use of eminent domain if the taking:

23 (a) Confers a private benefit on a particular private
24 party through the use of the property;

25 (b) Is for a public use that is merely a pretext for
26 conferring a private benefit on a particular private party;

27 (c) Is for purposes of economic development, unless
28 the purpose is community redevelopment as authorized pursuant
29 to s. 163.375, Florida Statutes; or

30 (d) Is for purposes of raising revenue to pay the
31 costs of a public project if the property being taken is not

1 otherwise necessary for the successful or safe operation of
2 that public project. However, this paragraph does not
3 prohibit the distribution of surplus toll revenue as otherwise
4 authorized by law.

5 (3) The prohibition in subsection (2) applies to the
6 use of eminent domain under the authority conferred by state
7 or local law. However, subsection (2) does not limit the
8 authority conferred by state law for taking private property
9 through the use of eminent domain for purposes of:

10 (a) A transportation project, including a railroad,
11 port, airport, or a public road or highway;

12 (b) A water supply, wastewater, flood control, or
13 drainage project;

14 (c) The operations of a common carrier or energy
15 transporter;

16 (d) The provision of utility services;

17 (e) A convention center, sports stadium, sports arena,
18 coliseum, or auditorium project approved by voters at a
19 referendum held in conjunction with a general election; or

20 (f) Public infrastructure.

21 Section 2. This act shall take effect July 1, 2006.

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24 SENATE SUMMARY

25 Prohibits a governmental entity from taking private
26 property through the use of eminent domain if the taking
27 confers a private benefit on a private party, is for the
28 purpose of economic development not otherwise authorized
29 by law, or is for the purpose of raising revenue for a
30 public project. Provides certain exceptions. (See bill
31 for details.)