
SENATE BILL No. 391

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-24-1.

Synopsis: Eminent domain. Prohibits the state or a political subdivision from transferring any interest in property acquired by eminent domain to another person for commercial use unless: (1) there is a substantial likelihood that the acquisition of the property will promote the opportunity for employment or create business opportunities; and (2) the property is in a blighted area. Defines "blighted area" as an area in which normal development and occupancy are undesirable or impossible due to: (1) deterioration; (2) obsolescence; (3) substandard structures; or (4) the vacancy or abandonment of a significant percentage of the property in the area.

Effective: July 1, 2006.

Bowser

January 11, 2006, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

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SENATE BILL No. 391



A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-24-1-3.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2006]: **Sec. 3.5. (a) This section does not apply to:**
4 (1) a public utility (as defined in IC 8-1-2-1);
5 (2) a municipally owned utility (as defined in IC 8-1-2-1);
6 (3) a joint agency (as defined in IC 8-1-2.2-2);
7 (4) a rural electric membership corporation formed under
8 IC 8-1-13-4;
9 (5) a rural telephone cooperative corporation formed under
10 IC 8-1-17;
11 (6) a not-for-profit utility (as defined in IC 8-1-2-125);
12 (7) a board of aviation commissioners established under
13 IC 8-22-2;
14 (8) an airport authority established under IC 8-22-3;
15 (9) a railroad; or
16 (10) an entity that owns or operates a pipeline that carries
17 natural gas, crude oil or any of its constituents, refined



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products, or hazardous liquids.

(b) As used in this section, "any interest" includes the right to own, lease, sublease, transfer, or exchange a part of a property to be condemned.

(c) As used in this section, "blighted area" means an area in which normal development and occupancy are undesirable or impossible for one (1) or more of the following reasons:

- (1) Deterioration of improvements.
- (2) Obsolescence.
- (3) Substandard buildings.
- (4) A significant percentage of the property in the area is vacant or abandoned.

(d) As used in this section, "commercial use" means a use that does not relate directly to providing a governmental service or fulfilling a governmental responsibility. The term includes the following:

- (1) Private residential development or use of the property.
- (2) Private development of the property under a lease.
- (3) Use of the property for retail or industrial purposes.

(e) The state or a political subdivision may not transfer any interest in property acquired by eminent domain to another person for commercial use unless:

- (1) there is a substantial likelihood that the acquisition and transfer of the property will:
 - (A) promote or retain the opportunity for gainful employment; or
 - (B) create business opportunities; and
- (2) the property is or is located within a blighted area.

SECTION 2. IC 32-24-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) If the person seeking to acquire the property does not agree with the owner of an interest in the property or with the guardian of an owner concerning the damages sustained by the owner, the person seeking to acquire the property may file a complaint for that purpose with the clerk of the circuit court of the county where the property is located.

(b) The complaint must state the following:

- (1) The name of the person seeking to acquire the property. This person shall be named as the plaintiff.
- (2) The names of all owners, claimants to, and holders of liens on the property, if known, or a statement that they are unknown. These owners, claimants, and holders of liens shall be named as defendants.

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(3) The use the plaintiff intends to make of the property or right sought to be acquired. **If the plaintiff intends to transfer the property to another person for a commercial use, the complaint must specifically state:**

(A) that the plaintiff intends to transfer the property to another person for commercial use; and

(B) that the intended commercial use is permissible under section 3.5 of this chapter.

(4) If a right-of-way is sought, the location, general route, width, and the beginning and end points of the right-of-way.

(5) A specific description of each piece of property sought to be acquired and whether the property includes the whole or only part of the entire parcel or tract. If property is sought to be acquired by the state or by a county for a public highway or by a municipal corporation for a public use and the acquisition confers benefits on any other property of the owner, a specific description of each piece of property to which the plaintiff alleges the benefits will accrue. Plats of property alleged to be affected may accompany the descriptions.

(6) That the plaintiff has been unable to agree for the purchase of the property with the owner, owners, or guardians, as the case may be, or that the owner is mentally incompetent or less than eighteen (18) years of age and has no legally appointed guardian, or is a nonresident of Indiana.

(c) All parcels lying in the county and required for the same public use, whether owned by the same parties or not, may be included in the same or separate proceedings at the option of the plaintiff. However, the court may consolidate or separate the proceedings to suit the convenience of parties and the ends of justice. The filing of the complaint and a lis pendens notice in any eminent domain action under this article constitutes notice of proceedings to all subsequent purchasers and persons taking encumbrances of the property, who are bound by the notice.

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