

HOUSE BILL 212

By Hall

AN ACT to amend Tennessee Code Annotated, Title 13, Chapter 20; Title 29, Chapter 16 and Title 29, Chapter 17, relative to eminent domain.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 29-16-101, is amended by designating the existing language as subsection (a) and by adding the following new subsections thereto:

(b) The power of eminent domain shall be used sparingly, and laws permitting the use of eminent domain shall be narrowly construed so as not to enlarge by inference or inadvertently the power of eminent domain.

(c) As used in this chapter, unless the context otherwise requires:

(1) "Blighted areas" are areas, including slum areas, with buildings or improvements that, by reason of dilapidation, obsolescence, overcrowding, lack of ventilation, light and sanitary facilities, deleterious land use, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community. "Welfare of the community" does not include solely a loss of property value to surrounding properties, nor does it include the need for increased tax revenues. Under no circumstance shall land used predominantly in the production of agriculture, as defined by § 1-3-105, be considered a blighted area; and

(2)

(A) "Blighted" or "deteriorated" property means any vacant structure or vacant or unimproved lot or parcel, whether residential, commercial or industrial, in a predominantly built-up neighborhood:

(i) Which because of physical condition or use is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with local housing, building, plumbing, fire, or related codes;

(ii) Which because of physical condition, use, or occupancy is considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations, and unsafe fences or structures;

(iii) Which, because it is dilapidated, unsanitary, unsafe, vermin-infested, or lacking in the facilities and equipment required by the housing code of the municipality, has been designated by the appropriate agency or department responsible for enforcement of the code as unfit for human habitation;

(iv) Which is a fire hazard, or is otherwise dangerous to the safety of persons or property;

(v) From which the utilities, plumbing, heating, sewerage, or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use;

(vi) Which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin;

(vii) Which has been tax delinquent for a period of at least three (3) years; or

(viii) Which has not been rehabilitated within the time constraints placed upon the owner by the appropriate code enforcement agency; and

(B) "Blighted" or "deteriorated" does not apply to any property used for agricultural purposes.

(d) A state or local governmental entity or any entity that has been granted the power of eminent domain shall not condemn private property that has been determined to be blighted and sell, lease, or otherwise transfer such property to a private entity.

(e) The taking through eminent domain of private property determined to be blighted shall be for the sole purpose of repairing or demolishing such property. The costs of repairing or demolishing such property shall be at a cost in conformity with reasonable standards. The costs of repairing or demolishing such property shall be assessed against the owner of the property. The cost shall be a lien upon the property in favor of the county. The costs shall be placed upon the tax rolls of the county as a lien upon the property and shall be collected in the same manner as the county's taxes are collected. Such lien shall be second only to liens of the state, the county and municipality for taxes, any lien of the county for special assessments and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. Such notice shall identify the owner of record of the real property, contain the property address, describe the property sufficiently to identify it and recite the amount of the obligation secured by the lien.

(f) Private property determined to be blighted and acquired by eminent domain by a state or local governmental entity or any entity that has been granted the power of eminent domain shall be redeemable at any time within two (2) years after condemnation of such property.

SECTION 2. Tennessee Code Annotated, Section 29-17-102, is amended by adding the following new subdivisions thereto:

() "Blighted areas" are areas, including slum areas, with buildings or improvements that, by reason of dilapidation, obsolescence, overcrowding, lack of ventilation, light and sanitary facilities, deleterious land use, or any combination of these

or other factors, are detrimental to the safety, health, morals, or welfare of the community. "Welfare of the community" does not include solely a loss of property value to surrounding properties, nor does it include the need for increased tax revenues. Under no circumstance shall land used predominantly in the production of agriculture, as defined by § 1-3-105, be considered a blighted area;

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(A) "Blighted" or "deteriorated" property means any vacant structure or vacant or unimproved lot or parcel, whether residential, commercial, or industrial, in a predominantly built-up neighborhood:

(i) Which because of physical condition or use is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with local housing, building, plumbing, fire or related codes;

(ii) Which because of physical condition, use or occupancy is considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations, and unsafe fences or structures;

(iii) Which, because it is dilapidated, unsanitary, unsafe, vermin-infested or lacking in the facilities and equipment required by the housing code of the municipality, has been designated by the appropriate agency or department responsible for enforcement of the code as unfit for human habitation;

(iv) Which is a fire hazard, or is otherwise dangerous to the safety of persons or property;

(v) From which the utilities, plumbing, heating, sewerage or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use;

(vi) Which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin;

(vii) Which has been tax delinquent for a period of at least three (3) years; or

(viii) Which has not been rehabilitated within the time constraints placed upon the owner by the appropriate code enforcement agency; and

(B) "Blighted" or "deteriorated" does not apply to any property used for agricultural purposes;

SECTION 3. Tennessee Code Annotated, Title 29, Chapter 17, Part 1, is amended by adding a new section thereto, as follows:

29-17-107.

(a) A state or local governmental entity or any entity that has been granted the power of eminent domain shall not condemn private property that has been determined to be blighted and sell, lease, or otherwise transfer such property to a private entity.

(b) The taking through eminent domain of private property determined to be blighted shall be for the sole purpose of repairing or demolishing such property. The costs of repairing or demolishing such property shall be at a cost in conformity with reasonable standards. The cost of repairing or demolishing such property shall be assessed against the owner of the property. The cost shall be a lien upon the property in favor of the county. The costs shall be placed upon the tax rolls of the county as a lien upon the property and shall be collected in the same manner as the county's taxes

are collected. Such lien shall be second only to liens of the state, the county and municipality for taxes, any lien of the county for special assessments and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. Such notice shall identify the owner of record of the real property, contain the property address, describe the property sufficiently to identify it and recite the amount of the obligation secured by the lien.

(c) Private property determined to be blighted and acquired by eminent domain by a state or local governmental entity or any entity that has been granted the power of eminent domain shall be redeemable at any time within two (2) years after condemnation of such property.

SECTION 4. Tennessee Code Annotated, Section 13-20-102, is amended by adding the following new subdivisions thereto:

() "Blighted areas" are areas, including slum areas, with buildings or improvements that, by reason of dilapidation, obsolescence, overcrowding, lack of ventilation, light and sanitary facilities, deleterious land use, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community. "Welfare of the community" does not include solely a loss of property value to surrounding properties, nor does it include the need for increased tax revenues. Under no circumstance shall land used predominantly in the production of agriculture, as defined by § 1-3-105, be considered a blighted area;

() (A) "Blighted" or "deteriorated" property means any vacant structure or vacant or unimproved lot or parcel, whether residential, commercial, or industrial, in a predominantly built-up neighborhood:

(i) Which because of physical condition or use is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with local housing, building, plumbing, fire or related codes;

(ii) Which because of physical condition, use or occupancy is considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations, and unsafe fences or structures;

(iii) Which, because it is dilapidated, unsanitary, unsafe, vermin-infested, or lacking in the facilities and equipment required by the housing code of the municipality, has been designated by the appropriate agency or department responsible for enforcement of the code as unfit for human habitation;

(iv) Which is a fire hazard, or is otherwise dangerous to the safety of persons or property;

(v) From which the utilities, plumbing, heating, sewerage, or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use;

(vi) Which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin;

(vii) Which has been tax delinquent for a period of at least three (3) years; or

(viii) Which has not been rehabilitated within the time constraints placed upon the owner by the appropriate code enforcement agency;

(B) "Blighted" or "deteriorated" does not apply to any property used for agricultural purposes;

SECTION 5. Tennessee Code Annotated, Section 13-20-104(a), is amended by adding the following language to the end of subdivision (17):

The power of eminent domain shall be used sparingly, and laws permitting the use of eminent domain shall be narrowly construed so as not to enlarge by inference or inadvertently the power of eminent domain.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.