

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Callegari, et al.

H.B. No. 3057

A BILL TO BE ENTITLED

AN ACT

relating to the acquisition of real property for public use.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 373.002(b), Local Government Code, is amended to read as follows:

(b) Activities conducted under this chapter are directed toward the following purposes:

(1) elimination of [~~slums and~~] areas affected by blight;

(2) prevention of blighting influences and of the deterioration of property and neighborhood and community facilities important to the welfare of the community;

(3) elimination of conditions detrimental to the public health, safety, and welfare;

(4) expansion and improvement of the quantity and quality of community services essential for the development of viable urban communities;

(5) more rational use of land and other natural resources;

(6) improved arrangement of residential, commercial, industrial, recreational, and other necessary activity centers;

(7) restoration and preservation of properties of special value for historic, architectural, or aesthetic reasons;

(8) reduction of the isolation of income groups in

1 communities and geographical areas, promotion of increased  
2 diversity and vitality of neighborhoods through spatial  
3 deconcentration of housing opportunities for persons of low and  
4 moderate income, and revitalization of deteriorating or  
5 deteriorated neighborhoods to attract persons of higher income; and

6 (9) alleviation of physical and economic distress  
7 through the stimulation of private investment and community  
8 revitalization in [~~slum or~~] blighted areas.

9 SECTION 2. Section 373.004, Local Government Code, is  
10 amended to read as follows:

11 Sec. 373.004. GOALS OF PROGRAM. Through a community  
12 development program, a municipality may conduct work or activities  
13 designed to:

14 (1) improve the living and economic conditions of  
15 persons of low and moderate income;

16 (2) benefit low or moderate income neighborhoods;

17 (3) aid in the prevention or elimination of [~~slums~~  
18 ~~and~~] blighted areas;

19 (4) aid a federally assisted new community; or

20 (5) meet other urgent community development needs,  
21 including an activity or function specified for a community  
22 development program that incorporates a federally assisted new  
23 community.

24 SECTION 3. Section 373.006, Local Government Code, is  
25 amended to read as follows:

26 Sec. 373.006. REQUIRED PROCEDURES BEFORE ADOPTION OF  
27 COMMUNITY DEVELOPMENT PROGRAM. Before exercising powers under

1 Section 373.005, the governing body of the municipality must:

2 (1) identify areas of the municipality in which  
3 predominantly low and moderate income persons reside and each unit  
4 of real property in the municipality~~[7]~~ that has the  
5 characteristics of blight ~~[are blighted or slum areas]~~ or that is a  
6 [are] federally assisted new community in the municipality  
7 [communities];

8 (2) establish community development program areas in  
9 which community development activities, building rehabilitation,  
10 or the acquisition of privately owned buildings or land is  
11 proposed;

12 (3) adopt, by resolution or ordinance, a plan under  
13 which citizens may publicly comment on the proposed community  
14 development program;

15 (4) conduct public hearings on the proposed program  
16 before the 15th day before the date of its final adoption by the  
17 governing body; and

18 (5) adopt the community development program by  
19 resolution or ordinance.

20 SECTION 4. Sections 374.002(a) and (b), Local Government  
21 Code, are amended to read as follows:

22 (a) The legislature finds that ~~[slum and]~~ blighted areas  
23 exist in municipalities in this state and that those areas:

24 (1) are a serious and growing menace that is injurious  
25 and inimical to the public health, safety, morals, and welfare of  
26 the residents of this state;

27 (2) contribute substantially and increasingly to the

1 spread of disease and crime, requiring excessive and  
2 disproportionate expenditures of public funds for the preservation  
3 of the public health and safety, and for crime prevention,  
4 correctional facilities, prosecution and punishment, treatment of  
5 juvenile delinquency, and the maintenance of adequate police, fire,  
6 and accident protection and other public services and facilities;  
7 and

8 (3) constitute an economic and social liability,  
9 substantially impair the sound growth of affected municipalities,  
10 and retard the provision of housing accommodations.

11 (b) For these reasons, prevention and elimination of [~~slum~~  
12 ~~and~~] blighted areas are matters of state policy and concern that may  
13 be best addressed by the combined action of private enterprise,  
14 municipal regulation, and other public action through approved  
15 urban renewal plans. The legislature further finds that the repair  
16 and rehabilitation of buildings and other improvements in affected  
17 areas, public acquisition of real property, demolition of buildings  
18 and other improvements as necessary to eliminate [~~slum or~~] blight  
19 conditions or to prevent the spread of those conditions, the  
20 disposition of property acquired in affected areas and incidental  
21 to the purposes stated by this subsection, and other public  
22 assistance to eliminate those conditions are public purposes for  
23 which public money may be spent and the power of eminent domain  
24 exercised.

25 SECTION 5. Sections 374.003(3), (18), (25), (26), and (28),  
26 Local Government Code, are amended to read as follows:

27 (3) "Blighted area" means a tract or unit of property

1 [an area] that presents four or more of the following conditions for  
2 at least one year after the date on which notice of the conditions  
3 is provided to the property owner as required by Section  
4 374.018(a)(1) or (b):

5 (A) the property contains uninhabitable, unsafe,  
6 or abandoned structures;

7 (B) the property has inadequate provisions for  
8 sanitation;

9 (C) there exists on the property an imminent harm  
10 to life or other property caused by fire, flood, hurricane,  
11 tornado, earthquake, storm, or other natural catastrophe declared  
12 to be a disaster under Section 418.014, Government Code, or  
13 certified as a disaster for federal assistance under Section  
14 418.021, Government Code;

15 (D) the property has been identified by the  
16 federal Environmental Protection Agency as a superfund site under  
17 the federal Comprehensive Environmental Response, Compensation,  
18 and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.) or as  
19 environmentally contaminated to an extent that the property  
20 requires remedial investigation or a feasibility study;

21 (E) the property has been the location of  
22 substantiated and repeated illegal activity of which the property  
23 owner knew or should have known;

24 (F) the maintenance of the property is below  
25 county or municipal standards;

26 (G) the property is abandoned and contains a  
27 structure that is not fit for its intended use because the

1 utilities, sewerage, plumbing, or heating or a similar service or  
2 facility of the structure has been disconnected, destroyed,  
3 removed, or rendered ineffective; or

4 (H) the property presents an economic liability  
5 to the immediate area because of deteriorating structures or  
6 hazardous conditions [~~is not a slum area, but that, because of~~  
7 ~~deteriorating buildings, structures, or other improvements,~~  
8 ~~defective or inadequate streets, street layout, or accessibility,~~  
9 ~~unsanitary conditions, or other hazardous conditions, adversely~~  
10 ~~affects the public health, safety, morals, or welfare of the~~  
11 ~~municipality and its residents, substantially retards the~~  
12 ~~provision of a sound and healthful housing environment, or results~~  
13 ~~in an economic or social liability to the municipality. The term~~  
14 ~~includes an area certified as a disaster area as provided by Section~~  
15 ~~374.903].~~

16 (18) "Rehabilitation" means the restoration of  
17 buildings or other structures to prevent deterioration of an area  
18 that is tending to become a blighted area [~~or a slum area~~].

19 (25) "Urban renewal activities" includes [~~slum~~  
20 ~~clearance,~~] redevelopment, rehabilitation, and conservation  
21 activities to prevent further deterioration of an area that is  
22 tending to become a blighted [~~or slum~~] area. The term includes:

23 (A) the acquisition of all or part of a [~~slum area~~  
24 ~~or~~] blighted area or the acquisition of land that is predominantly  
25 open and that, because of obsolete platting, diversity of  
26 ownership, deterioration of structures or site improvements, or for  
27 other reasons, substantially impairs or arrests the sound growth of

1 the community;

2 (B) the demolition and removal of buildings and  
3 improvements;

4 (C) the installation, construction, or  
5 reconstruction of streets, utilities, parks, playgrounds, and  
6 other improvements necessary to fulfill urban renewal objectives in  
7 accordance with an urban renewal plan;

8 (D) the disposition by the municipality of  
9 property acquired in an urban renewal area for use in accordance  
10 with an urban renewal plan, including the sale or initial lease of  
11 the property at its fair value or the retention of the property;

12 (E) the implementation of plans for a program of  
13 voluntary repair and rehabilitation of buildings or improvements in  
14 accordance with an urban renewal plan; and

15 (F) the acquisition of real property in an urban  
16 renewal area as necessary to remove or prevent the spread of blight  
17 or deterioration or to provide land for needed public facilities.

18 (26) "Urban renewal area" means a [~~slum area,~~  
19 blighted area~~], or a combination of those areas~~] that the governing  
20 body of a municipality designates as appropriate for an urban  
21 renewal project.

22 (28) "Urban renewal project" includes any of the  
23 following activities undertaken in accordance with an urban renewal  
24 plan:

25 (A) municipal activities in an urban renewal area  
26 that are designed to eliminate or to prevent the development or  
27 spread of [~~slums and~~] blighted areas;

1 (B) [~~slum clearance and redevelopment in an urban~~  
2 ~~renewal area,~~

3 [~~(C)~~] rehabilitation or conservation in an urban  
4 renewal area;

5 (C) [~~(D)~~] development of open land that, because  
6 of location or situation, is necessary for sound community growth  
7 and that is to be developed, by replatting and planning, for  
8 predominantly residential uses; or

9 (D) [~~(E)~~] any combination or part of the  
10 activities described by Paragraphs (A)-(C) [~~(D)~~].

11 SECTION 6. Section 374.011, Local Government Code, is  
12 amended by amending Subsection (a) and adding Subsection (d) to  
13 read as follows:

14 (a) Except as provided by Section 374.012, a municipality  
15 may not exercise a power granted under this chapter unless:

16 (1) the governing body of the municipality adopts a  
17 resolution that finds that a [~~slum area or~~] blighted area exists in  
18 the municipality and that the rehabilitation, the conservation, or  
19 the [~~slum clearance and~~] redevelopment of the area is necessary for  
20 the public health, safety, morals, or welfare of the residents of  
21 the municipality; and

22 (2) a majority of the municipality's voters voting in  
23 an election held as provided by Subsection (b) favor adoption of the  
24 resolution.

25 (d) The governing body of the municipality must determine  
26 that each unit of real property included in a resolution under  
27 Subsection (a) has the characteristics of blight.



1 SECTION 7. Section 374.012(c), Local Government Code, is  
2 amended to read as follows:

3 (c) The resolution ordering the election and the notice of  
4 the election must contain:

5 (1) a complete legal description of each unit of  
6 property [~~the area~~] included in the proposed project;

7 (2) a statement of the nature of the proposed project;  
8 [~~and~~]

9 (3) a statement of the total amount of local funds to  
10 be spent on the proposed project; and

11 (4) a statement that each unit of property has the  
12 characteristics of blight.

13 SECTION 8. Section 374.013(a), Local Government Code, is  
14 amended to read as follows:

15 (a) To further the urban renewal objectives of this chapter,  
16 a municipality may formulate a workable program to use appropriate  
17 private and public resources, including the resources specified by  
18 Subsection (b), to encourage urban rehabilitation, to provide for  
19 the redevelopment of [~~slum and~~] blighted areas, or to undertake  
20 those activities or other feasible municipal activities as may be  
21 suitably employed to achieve the objective of the program. The  
22 program must specifically include provisions relating to:

23 (1) prevention, through diligent enforcement of  
24 housing and occupancy controls and standards, of the expansion of  
25 blight into areas of the municipality that are free from blight; and

26 (2) rehabilitation or conservation of [~~slum and~~]  
27 blighted areas as far as practicable to areas that are free from

1 blight through replanning, removing congestion, providing parks,  
2 playgrounds, and other public improvements, encouraging voluntary  
3 rehabilitation and requiring the repair and rehabilitation of  
4 deteriorated or deteriorating structures [~~and the clearance and~~  
5 ~~redevelopment of slum areas~~].

6 SECTION 9. Section 374.014(a), Local Government Code, is  
7 amended to read as follows:

8 (a) A municipality may not prepare an urban renewal plan for  
9 an area unless the governing body of the municipality has, by  
10 resolution, declared the area to be a [~~slum area, a~~] blighted area [~~or both~~]  
11 and has designated the area as appropriate for an urban  
12 renewal project. The governing body may not approve an urban  
13 renewal plan until a general plan has been prepared for the  
14 municipality. A municipality may not acquire real property for an  
15 urban renewal project until the governing body has approved the  
16 urban renewal plan as provided by Subsection (d).

17 SECTION 10. Sections 374.015(a) and (d), Local Government  
18 Code, are amended to read as follows:

19 (a) A municipality may exercise all powers necessary or  
20 convenient to carry out the purposes of this chapter, including the  
21 power to:

22 (1) conduct preliminary surveys to determine if  
23 undertaking an urban renewal project is feasible;

24 (2) conduct urban renewal projects within its area of  
25 operation;

26 (3) execute contracts and other instruments necessary  
27 or convenient to the exercise of its powers under this chapter;

1           (4) provide, arrange, or contract for the furnishing  
2 or repair by any person of services, privileges, works, streets,  
3 roads, public utilities, or other facilities in connection with an  
4 urban renewal project, including installation, construction, and  
5 reconstruction of streets, utilities, parks, playgrounds, and  
6 other public improvements necessary to carry out an urban renewal  
7 project;

8           (5) acquire any real property, including  
9 improvements, and any personal property necessary for  
10 administrative purposes, that is necessary or incidental to an  
11 urban renewal project, hold, improve, clear, or prepare the  
12 property for redevelopment, mortgage or otherwise encumber or  
13 dispose of the real property, insure or provide for the insurance of  
14 real or personal property or municipal operations against any risk  
15 or hazard and to pay premiums on that insurance, and enter any  
16 necessary contracts;

17           (6) invest urban renewal project funds held in  
18 reserves or sinking funds, or not required for immediate  
19 disbursement, in property or securities in which banks may legally  
20 invest funds subject to their control, redeem bonds issued under  
21 Section 374.026 at the redemption price established in the bond, or  
22 purchase those bonds at less than the redemption price, and cancel  
23 the bonds redeemed or purchased;

24           (7) borrow money and apply for and accept advances,  
25 loans, grants, contributions, and other forms of financial  
26 assistance from the federal, state, or county government, other  
27 public body, or other public or private sources for the purposes of

1 this chapter, give any required security, and make and carry out any  
2 contracts in connection with the financial assistance;

3 (8) make plans necessary to carry out this chapter in  
4 its area of operation, contract with any person in making and  
5 carrying out the plans, and adopt, approve, modify or amend the  
6 plans;

7 (9) develop, test, and report methods and techniques  
8 for the prevention of [~~slums~~ and] urban blight, conduct  
9 demonstrations and other activities in connection with those  
10 methods and techniques, and apply for, accept, and use federal  
11 grants made for those purposes;

12 (10) prepare plans and provide reasonable assistance  
13 for the relocation of persons displaced from an urban renewal  
14 project area, including families, business concerns, and others, as  
15 necessary to acquire possession and to clear the area in order to  
16 conduct the urban renewal project;

17 (11) appropriate funds and make expenditures as  
18 necessary to implement this chapter and, subject to Subsection (c),  
19 levy taxes and assessments for that purpose;

20 (12) close, vacate, plan, or replan streets, roads,  
21 sidewalks, ways, or other places, plan, replan, zone, or rezone any  
22 part of the municipality and make exceptions from building  
23 regulations, and enter agreements with an urban renewal agency  
24 vested with urban renewal powers under Subchapter C, which may  
25 extend over any period, restricting action to be taken by the  
26 municipality under any of the powers granted under this chapter;

27 (13) organize, coordinate, and direct the

1 administration of this chapter within the area of operation as  
2 those provisions apply to the municipality to most effectively  
3 promote and achieve the purposes of this chapter and establish new  
4 municipal offices or reorganize existing offices as necessary to  
5 most effectively implement those purposes; and

6 (14) issue tax increment bonds.

7 (d) A [~~Except as provided by Section 374.016, a~~]  
8 municipality may acquire by condemnation any interest in real  
9 property, including a fee simple interest, that the municipality  
10 considers necessary for or in connection with an urban renewal  
11 project. Property dedicated to a public use may be acquired in that  
12 manner, except that property belonging to the state or to a  
13 political subdivision of the state may not be acquired without the  
14 consent of the state or political subdivision.

15 SECTION 11. Section 374.017(d), Local Government Code, is  
16 amended to read as follows:

17 (d) Real property or an interest in real property subject to  
18 this section may only be sold, leased, or otherwise transferred or  
19 retained at not less than the fair value of the property for uses in  
20 accordance with the urban renewal plan. In determining the fair  
21 value, the municipality shall consider:

22 (1) the uses provided in the urban renewal plan;

23 (2) any restrictions on and any covenants, conditions,  
24 and obligations assumed by the purchaser, lessee, or municipality  
25 in retaining the property;

26 (3) the objectives of the plan for the prevention of  
27 the recurrence of [~~slums or~~] blighted areas; and

1           (4) any other matters that the municipality specifies  
2 as appropriate.

3           SECTION 12. Section 374.021(b), Local Government Code, is  
4 amended to read as follows:

5           (b) In this section, "urban renewal project powers"  
6 includes the rights, powers, functions, and duties of a  
7 municipality under this chapter. The term does not include the  
8 power to:

9           (1) determine an area as a [~~slum-area,~~] blighted  
10 area[~~, or both~~] and to designate that area as appropriate for an  
11 urban renewal project;

12           (2) approve and amend urban renewal plans and hold  
13 public hearings relating to those plans;

14           (3) establish a general plan for the locality as a  
15 whole;

16           (4) establish a workable program under Section  
17 374.013;

18           (5) make determinations and findings under Section  
19 374.011(a), 374.013(b), or 374.014(d);

20           (6) issue general obligation bonds; and

21           (7) appropriate funds, levy taxes and assessments, and  
22 exercise other functions under Subdivisions (11) and (12) of  
23 Section 374.015(a).

24           SECTION 13. Subchapter B, Chapter 374, Local Government  
25 Code, is amended by adding Sections 374.018 and 374.019 to read as  
26 follows:

27           Sec. 374.018. LIMITATIONS ON CHARACTERIZATIONS OF BLIGHT.

1 (a) Notwithstanding any other law, an area may not be considered a  
2 blighted area on the basis of a condition described by Section  
3 374.003 unless:

4 (1) the municipality has given notice in writing to  
5 the property owner by first class mail regarding the condition to  
6 the:

7 (A) last known address of the property owner; and

8 (B) physical address of the property; and

9 (2) the property owner fails to take reasonable  
10 measures to remedy the condition.

11 (b) If a mailing address for the property owner cannot be  
12 determined, the municipality shall post notice in writing regarding  
13 the condition in a conspicuous place on the property.

14 (c) An area may not be considered a blighted area solely for  
15 an aesthetic reason.

16 (d) A determination by a municipality that a unit of real  
17 property has the characteristics of blight is valid for two years.

18 (e) After the two-year period prescribed by Subsection (d),  
19 a municipality may make a new determination that the unit of real  
20 property has the characteristics of blight and redesignate the unit  
21 of real property as a blighted area for another two-year period.

22 (f) A municipality may remove a determination of blight  
23 under this chapter if the municipality finds that the property  
24 owner has remedied the condition that was the basis for the  
25 determination.

26 Sec. 374.019. COMMON OWNER PROPERTY. For the purposes of  
27 this chapter and Chapter 21, Property Code, if a municipality

1 determines that two or more contiguous units of real property that  
2 are owned by the same person have the characteristics of blight, the  
3 municipality may treat those units of property as one unit of  
4 property.

5 SECTION 14. Section 2206.001(b), Government Code, is  
6 amended to read as follows:

7 (b) A governmental or private entity may not take private  
8 property through the use of eminent domain if the taking:

9 (1) confers a private benefit on a particular private  
10 party through the use of the property;

11 (2) is for a public use that is merely a pretext to  
12 confer a private benefit on a particular private party; or

13 (3) is for economic development purposes, unless the  
14 economic development results [~~is a secondary purpose resulting~~]  
15 from municipal community development or municipal urban renewal  
16 activities to eliminate an existing affirmative harm on society  
17 from [~~slum or~~] blighted areas under:

18 (A) Chapter 373 or 374, Local Government Code,  
19 other than an activity described by Section 373.002(b)(5), Local  
20 Government Code; or

21 (B) Section 311.005(a)(1)(I), Tax Code.

22 SECTION 15. Section 21.041, Property Code, is amended to  
23 read as follows:

24 Sec. 21.041. EVIDENCE. As the basis for assessing actual  
25 damages to a property owner from a condemnation, the special  
26 commissioners shall admit evidence on:

27 (1) the value of the property being condemned;



1           (2) the injury to the property owner, including the  
2 financial damages associated with the cost of relocating from the  
3 condemned property, if the property was habitable, to another  
4 property that allows the property owner to have a standard of living  
5 comparable to the property owner's standard of living before the  
6 condemnation of the property;

7           (3) the benefit to the property owner's remaining  
8 property; and

9           (4) the use of the property for the purpose of the  
10 condemnation.

11           SECTION 16. Section 21.042(d), Property Code, is amended to  
12 read as follows:

13           (d) In estimating injury or benefit under Subsection (c),  
14 the special commissioners shall consider an injury or benefit that  
15 is peculiar to the property owner, including the property owner's  
16 financial damages described by Section 21.041(2), and that relates  
17 to the property owner's ownership, use, or enjoyment of the  
18 particular parcel of real property, but they may not consider an  
19 injury or benefit that the property owner experiences in common  
20 with the general community.

21           SECTION 17. Sections 21.046(a) and (b), Property Code, are  
22 amended to read as follows:

23           (a) A department, agency, instrumentality, or political  
24 subdivision of this state shall [~~may~~] provide a relocation advisory  
25 service for an individual, a family, a business concern, a farming  
26 or ranching operation, or a nonprofit organization that [~~if the~~  
27 ~~service~~] is compatible with the Federal Uniform Relocation

1 Assistance Advisory Program, 23 U.S.C.A. 501, et seq.

2 (b) This state or a political subdivision of this state  
3 shall [~~may~~], as a cost of acquiring real property, pay moving  
4 expenses and rental supplements, make relocation payments, provide  
5 financial assistance to acquire replacement housing, and  
6 compensate for expenses incidental to the transfer of the property  
7 if an individual, a family, the personal property of a business, a  
8 farming or ranching operation, or a nonprofit organization is  
9 displaced in connection with the acquisition.

10 SECTION 18. The following provisions of the Local  
11 Government Code are repealed:

12 (1) Section 374.003(19); and

13 (2) Section 374.016.

14 SECTION 19. This Act takes effect immediately if it  
15 receives a vote of two-thirds of all the members elected to each  
16 house, as provided by Section 39, Article III, Texas Constitution.  
17 If this Act does not receive the vote necessary for immediate  
18 effect, this Act takes effect September 1, 2007.

# ADOPTED

FLOOR AMENDMENT NO. 1

MAY 23 2007

BY: 

  
Secretary of the Senate

1 Amend H.B. No. 3057 (Senate Committee Printing) as follows:

2 (1) In SECTION 5 of the bill, in amended Subdivision (3),  
3 Section 374.003, Local Government Code (page 2, line 48), strike  
4 "four" and substitute "three".

5 (2) In SECTION 5 of the bill, in amended Subdivision (3),  
6 Section 374.003, Local Government Code (page 2, line 49), strike  
7 "one year" and substitute "six months".

8 (3) In SECTION 5 of the bill, in amended Subdivision (3),  
9 Section 374.003, Local Government Code (page 3, lines 2-3),  
10 strike Paragraph (F) and reletter subsequent paragraphs  
11 accordingly.

12 (4) In SECTION 5 of the bill, in amended Subdivision  
13 (3)(H), Section 374.003, Local Government Code (page 3, line  
14 10), strike "deteriorating structures or".

15 (5) Strike SECTIONS 15 through 17 of the bill (page 7,  
16 lines 21 through 62) and renumber subsequent SECTIONS  
17 accordingly.

18 (6) Add the following appropriately numbered SECTIONS to  
19 the bill and renumber subsequent SECTIONS accordingly:

20 SECTION \_\_. Section 311.002, Tax Code, is amended by  
21 adding Subdivision (5) to read as follows:

22 (5) "Blighted area" has the meaning assigned by  
23 Section 374.003(3), Local Government Code.

24 SECTION \_\_. Sections 311.008(b) and (e), Tax Code, are  
25 amended to read as follows:

26 (b) A municipality or county may exercise any power  
27 necessary and convenient to carry out this chapter, including  
28 the power to:

1

1 (1) cause project plans to be prepared, approve and  
2 implement the plans, and otherwise achieve the purposes of the  
3 plan;

4 (2) acquire real property by purchase [~~condemnation,~~  
5 ~~or other means~~] to implement project plans and sell that  
6 property on the terms and conditions and in the manner it  
7 considers advisable;

8 (3) enter into agreements, including agreements with  
9 bondholders, determined by the governing body of the  
10 municipality or county to be necessary or convenient to  
11 implement project plans and achieve their purposes, which  
12 agreements may include conditions, restrictions, or covenants  
13 that run with the land or that by other means regulate or  
14 restrict the use of land; and

15 (4) consistent with the project plan for the zone:

16 (A) acquire [~~blighted, deteriorated,~~  
17 ~~deteriorating, undeveloped, or inappropriately developed~~] real  
18 property or other property in a blighted area, an undeveloped  
19 area, or in a federally assisted new community in the zone for  
20 the preservation or restoration of historic sites,  
21 beautification or conservation, the provision of public works or  
22 public facilities, or other public purposes;

23 (B) acquire, construct, reconstruct, or install  
24 public works, facilities, or sites or other public improvements,  
25 including utilities, streets, street lights, water and sewer  
26 facilities, pedestrian malls and walkways, parks, flood and  
27 drainage facilities, or parking facilities, but not including  
28 educational facilities; [~~or~~]

29 (C) in a reinvestment zone created on or before  
30 September 1, 1999, acquire, construct, or reconstruct

1 educational facilities in the municipality; or

2 (D) acquire by condemnation any interest,  
3 including a fee simple interest, in real property that is a  
4 blighted area and necessary for the reinvestment zone.

5 (e) A municipality or county may acquire by condemnation  
6 an interest in real property only if the taking is in accordance  
7 with Chapter 2206, Government Code [~~The implementation of a~~  
8 ~~project plan to alleviate a condition described by Section~~  
9 ~~311.005(a)(1), (2), or (3) and to promote development or~~  
10 ~~redevelopment of a reinvestment zone in accordance with this~~  
11 ~~chapter serves a public purpose].~~

12 SECTION \_\_. Section 311.008(c), Tax Code, is repealed.

13 SECTION \_\_. The changes in law made by this Act apply only  
14 to a condemnation proceeding in which the petition is filed on  
15 or after the effective date of this Act and to any property  
16 condemned through the proceeding. A condemnation proceeding in  
17 which the petition is filed before the effective date of this  
18 Act and any property condemned through the proceeding is  
19 governed by the law in effect immediately before that date, and  
20 that law is continued in effect for that purpose.

**ADOPTED**

MAY 23 2007

*Atty. Gen. Paul*  
Secretary of the Senate

FLOOR AMENDMENT NO. 2  
BY Gallegos

Amend C.S.H.B. No. 3057 as follows:

(1) On page \_\_\_\_, between lines \_\_\_\_ and \_\_\_\_ insert a new SECTION \_\_\_\_ of the bill as follows:

"SECTION \_\_\_\_ Section 214.003, Local Government Code, is amended by amending Subsections (a), (b), (h), (k), (l), (n), (o), and (p) and adding Subsection (h-1) to read as follows:

(a) A home-rule municipality may bring an action in district court against an owner of [~~residential~~] property that is not in substantial compliance with the municipal ordinances regarding:

- (1) fire protection;
- (2) structural integrity;
- (3) zoning; or
- (4) disposal of refuse.

(b) Except as provided by Subsection (c), the court may appoint as a receiver for the property a nonprofit organization with a demonstrated record of rehabilitating [~~residential~~] properties if the court finds that:

- (1) the structures on the property are in violation of the standards set forth in Section 214.001(b) and an ordinance described by Subsection (a);

(2) notice of violation was given to the record owner of the property; and

(3) a public hearing as required by Section 214.001(d) has been conducted.

(h) On the completion of the restoration of ~~to~~ the property to ~~of~~ the minimum code standards of the municipality or guidelines for rehabilitating historic property, or before petitioning a court for termination of the receivership under Subsection (1):

(1) the receiver shall file with the court a full accounting of all costs and expenses incurred in the repairs, including reasonable costs for labor and supervision, ~~and~~ all income received from the property, and, at the receiver's discretion, a receivership fee of 10 percent of those costs and expenses;

(2) if the income exceeds the total of the cost and expense of rehabilitation and any receivership fee, the rehabilitated property shall be restored to the owners and any net income shall be returned to the owners; and

(3) if the total of the costs and expenses and any receivership fee exceeds ~~exceeds~~ the income received during the receivership, the receiver may ~~shall~~ maintain control of the property until the time all rehabilitation and maintenance costs and any receivership fee are recovered, or until the receivership is terminated.

(h-1) A receiver shall have a lien on the property under receivership for all of the receiver's unreimbursed costs and expenses and any receivership fee.

(k) The court may not appoint a receiver for any property that~~+~~

~~[(1)]~~ is an owner-occupied, single-family residence ~~[, or~~

~~[(2) is zoned nonresidential and used in a nonresidential character].~~

(1) A receiver appointed by a district court under this section, or the home-rule municipality that filed the action under which the receiver was appointed, may petition the court to terminate the receivership and order the sale of the property [+

~~[(1) if the receiver has been in control of the property for more than two years and no legal owner has been identified after a diligent search; or~~

~~[(2)]~~ after the receiver has been in control of the property for more than one year ~~[three years]~~, if an owner has been ~~[identified and]~~ served with notice ~~[notices]~~ but has failed to assume control or repay all rehabilitation and maintenance costs and any receivership fee of the receiver.

(n) The court may order the sale of the property if the court finds that:

(1) notice was given to each record owner of the property and each lienholder of record;

(2) the receiver has been in control of the property for more than one year ~~[two years and no legal owner has been identified after a diligent search; or the receiver has been in control of the property for more than three years]~~ and an owner has ~~[been identified but has]~~ failed to repay all rehabilitation and maintenance costs and any receivership fee of the receiver; and

(3) no lienholder of record has intervened in the action and offered to repay the costs and



any receivership fee of the receiver and assume control of the property.

(o) The court shall order the sale to be conducted by the petitioner in the same manner that a sale is conducted under Chapter 51, Property Code. If the record owners and lienholders are identified, notice of the date and time of the sale must be sent in the same manner as provided by Chapter 51, Property Code. If the owner cannot be located after due diligence, the owner may be served notice by publication. The receiver may bid on the property at the sale and may use a lien granted under Subsection (h-1) as credit toward the purchase. The petitioner shall make a report of the sale to the court.

(p) The court shall confirm the sale and order a distribution of the proceeds of the sale in the following order:

- (1) court costs;
- (2) costs and expenses of the receiver, and any lien held by the receiver; and
- (3) other valid liens."

(2) Renumber subsequent SECTIONS appropriately.

(3) On page \_\_\_\_, between lines \_\_ and \_\_ insert a new SECTION \_\_ of the bill to read as follows:

"SECTION \_\_\_\_\_. The changes in law made by this Act to Section 214.003, Local Government Code, apply only to a receivership established on or after the effective date of this Act. A receivership established before the effective date of this Act is governed by the law in effect when the receivership was established, and the former law is continued in effect for that purpose."

(4) Renumber remaining SECTION appropriately.

**ADOPTED**

FLOOR AMENDMENT NO. 3

MAY 23 2007

BY: Roger W. W.

*Satay Spaw*  
Secretary of the Senate

1 Amend H.B. No. 3057 (Senate Committee Printing) by adding  
2 the following appropriately numbered SECTIONS to the bill and  
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION \_\_. Chapter 373, Local Government Code, is amended  
5 by adding Section 373.0041 to read as follows:

6 Sec. 373.0041. TRANSFER OF CERTAIN PROPERTY AUTHORIZED.

7 In addition to any work or activity conducted under Section  
8 373.004, a municipality that has a population of 1.18 million or  
9 more and that has adopted a council-manager form of government  
10 may, as part of the municipality's community development program  
11 under this chapter, transfer real property that has a historic  
12 designation to a state university or university system for the  
13 purpose of establishing a public law school under Section  
14 105.502, Education Code, that is designed to further the  
15 purposes listed by Section 373.002(b).

16 SECTION \_\_. Subchapter J, Chapter 105, Education Code, is  
17 amended by adding Section 105.502 to read as follows:

18 Sec. 105.502. UNIVERSITY OF NORTH TEXAS SYSTEM SCHOOL OF

19 LAW. (a) The board may establish and operate a school of law  
20 in the city of Dallas as a professional school of the University  
21 of North Texas System.

22 (b) In administering the law school, the board may  
23 prescribe courses leading to customary degrees offered at other  
24 leading American schools of law and may award those degrees.

25 (c) Until the University of North Texas at Dallas has been  
26 administered as a general academic teaching institution for five  
27 years, the board shall administer the law school as a  
28 professional school of the system. After that period, the law

1 school shall become a professional school of the University of  
2 North Texas at Dallas. Until the law school becomes a  
3 professional school of the University of North Texas at Dallas,  
4 the law school is entitled to formula funding as if the law  
5 school were a professional school of a general academic teaching  
6 institution.

7 (d) Before the board establishes a law school under this  
8 section, but not later than June 1, 2008, the Texas Higher  
9 Education Coordinating Board shall prepare a feasibility study  
10 to determine the actions the system must take to obtain  
11 accreditation of the law school. The Texas Higher Education  
12 Coordinating Board shall deliver a copy of the study to the  
13 chair of each legislative standing committee or subcommittee  
14 with jurisdiction over higher education.

15 SECTION \_\_\_\_ . Subchapter B, Chapter 55, Education Code, is  
16 amended by adding Section 55.1765 to read as follows:

17 Sec. 55.1765. UNIVERSITY OF NORTH TEXAS SYSTEM; ADDITIONAL  
18 BONDS. (a) In addition to the other authority granted by this  
19 subchapter, the board of regents of the University of North  
20 Texas System may acquire, purchase, construct, improve,  
21 renovate, enlarge, or equip property, buildings, structures, or  
22 other facilities, including roads and related infrastructure,  
23 for the law school established in the city of Dallas by the  
24 University of North Texas System, to be financed by the issuance  
25 of bonds in accordance with this subchapter, including bonds  
26 issued in accordance with a system-wide revenue financing  
27 program and secured as provided by that program, in an aggregate  
28 principal amount not to exceed \$30 million.

29 (b) The board of regents may pledge irrevocably to the  
30 payment of the bonds authorized by this section all or any part

1 of the revenue funds of an institution, branch, or entity of the  
2 University of North Texas System, including student tuition  
3 charges. The amount of a pledge made under this subsection may  
4 not be reduced or abrogated while the bonds for which the pledge  
5 is made, or bonds issued to refund those bonds, are outstanding.

6 (c) If sufficient funds are not available to the board of  
7 regents to meet its obligations under this section, the board  
8 may transfer funds among institutions, branches, and entities of  
9 the University of North Texas System to ensure the most  
10 equitable and efficient allocation of available resources for  
11 each institution, branch, or entity to carry out its duties and  
12 purposes.

13 (d) Notwithstanding Subsection (a), the University of  
14 North Texas System may not issue bonds under this section for  
15 facilities at the law school established by the system until the  
16 date that the law school receives provisional or other  
17 appropriate accreditation by a recognized accrediting agency, as  
18 defined by Section 61.003. If the law school does not receive  
19 the provisional or other appropriate accreditation by January 1,  
20 2010, the system's authority to issue bonds for the law school  
21 under this section expires on that date.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 15, 2007**

**TO:** Honorable Robert Duncan, Chair, Senate Committee on State Affairs

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3057** by Callegari (Relating to the acquisition of real property for public use.), As  
**Engrossed**

**The amount of additional costs and overall negative fiscal impact to a condemnor under the provisions of the bill would vary by condemnor and by case, and therefore the fiscal impact to the state cannot be estimated.**

The bill would amend the Local Government Code regarding procedures a municipality must follow when identifying property as having the characteristics of blight and before exercising powers of eminent domain.

The bill would amend the Property Code to require a department, agency, instrumentality, or political subdivision of this state to provide a relocation advisory service for an individual, family, business concern, farming or ranching operation, or nonprofit organization being displaced by the exercising of powers of eminent domain. This state or a political subdivision of this state would be required to pay moving expenses and rental supplements, make relocation payments, provide financial assistance to acquire replacement housing, and compensate for expenses incidental to the transfer of the property if an individual, family, business concern, farming or ranching operation, or nonprofit organization would be displaced in connection with acquisition of property. Under current statute, payment of these costs by the state or political subdivisions acquiring the property is optional.

Based on the analysis of the Texas Department of Transportation, it is assumed the provisions of the bill would result in increased costs for the acquisition of highway right of way through condemnation. Because the factors considered in evaluating the financial or economic damages to the owner of the property to be condemned would vary by case, any additional costs or negative fiscal implications to the state cannot be determined.

The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2007.

**Local Government Impact**

The negative fiscal impact to a political subdivision would vary depending on the number of property acquisitions for which the additionally listed costs would be required, and therefore cannot be determined; however, it could be significant.

**Source Agencies:** 601 Department of Transportation

**LBB Staff:** JOB, KJG, MW, TG, WK, DB



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**April 19, 2007**

**TO:** Honorable Anna Mowery, Chair, House Committee on Land & Resource Management

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3057** by Callegari (Relating to the acquisition of real property for public use. ),  
**Committee Report 1st House, Substituted**

**No fiscal implication to the State is anticipated.**

The bill would amend the Local Government Code regarding procedures a municipality must follow when identifying property as having the characteristics of blight and before exercising powers of eminent domain.

The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2007.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JOB, WK, DB





**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 26, 2007**

**TO:** Honorable Anna Mowery, Chair, House Committee on Land & Resource Management

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3057** by Callegari (Relating to the acquisition of real property for public use.), **As Introduced**

**No fiscal implication to the State is anticipated.**

The bill would redefine for the purposes of acquiring real property for public use the terms "public use" and "blighted area." The bill would stipulate that "public use" does not include the public benefit of economic development.

The bill would repeal sections of the Local Government Code in which "slum area" and "slum clearance" are defined, as well as Chapter 251, Municipal Right of Eminent Domain.

The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2007.

According to analysis by the Texas Department of Transportation, because there are exceptions for transportation projects, including public roads and highways, the bill would have no fiscal impact on the agency.

**Local Government Impact**

The fiscal impact to units of local government would vary depending on the number of properties that may be affected by the adjustments in definitions and that a local government entity would consider acquiring. However, according to several counties and municipalities contacted regarding the bill, the impact is not expected to be significant.

**Source Agencies:** 601 Department of Transportation

**LBB Staff:** JOB, WK, MW, DB

