

BILL ANALYSIS

H.B. 1389
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Urban Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

State law authorizes certain governmental entities to exercise the right of eminent domain to cure the problems of urban slums and blight. The statutory definitions for slums and blighted areas are arguably inappropriately broad and imprecise and conducive to subjective interpretations where any material defect on a property may render it eligible for condemnation.

H.B. 1389 "blighted area" for purposes of municipal urban renewal to specify certain conditions that must be present before an area qualifies for an exception to that law as a blighted area. The bill removes references to slums and slum areas in certain laws. The bill repeals provisions defining "slum area" and relating to slum clearance.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1389 amends the Government Code provisions relating to limiting the use of eminent domain for economic development purposes with certain exceptions. The bill specifies that the exception for economic development related to municipal community development or municipal urban renewal is for economic development that results from, rather than is a secondary purpose resulting from, municipal community development or municipal urban renewal activities to eliminate an existing affirmative harm on society from blighted areas, rather than from slum or blighted areas.

H.B. 1389 amends the Local Government Code to make conforming changes, relating to the above provisions, to the laws governing municipal community development and municipal urban renewal. The bill removes references to slums and slum areas in those laws. The bill repeals provisions defining "slum area" and relating to slum clearance. The bill requires the governing body of a municipality, before exercising powers relating to community development, to identify each unit of real property in the municipality that has the characteristics of blight or that is a federally assisted new community in the municipality, rather than identify areas that are blighted or slum areas, or that are federally assisted new communities. The bill removes provisions defining "blighted area" for purposes of municipal urban renewal as an area that is not a slum area, but that because of certain conditions, adversely affects public health and safety or a sound and healthful housing environment, or results in an economic or social liability to the municipality. The bill defines "blighted area" for those purposes as a tract or unit of property that presents four or more of the following conditions for at least one year after the date on which notice of the conditions is provided to the property owner as required by the bill's provisions:

- the property contains uninhabitable, unsafe, or abandoned structures
- the property has inadequate provisions for sanitation

- there exists on the property an imminent danger to life or other property caused by fire, flood, hurricane, tornado, earthquake, storm, or other natural catastrophe declared to be a disaster or certified as a disaster for federal assistance under state law
- the property has been identified by the United States Environmental Protection Agency as a superfund site under federal law or as environmentally contaminated to an extent that the property requires remedial investigation or a feasibility study
- the property has been the location of substantiated and repeated illegal activity of which the property owner knew or should have known
- the maintenance of the property is below county or municipal standards
- the property is abandoned and contains a structure that is not fit for its intended use because the utilities, sewerage, plumbing, or heating or a similar service or facility of the structure has been disconnected, destroyed, removed, or rendered ineffective
- the property presents an economic liability to the immediate area because of deteriorating structures or hazardous conditions.

H.B. 1389 requires the governing body of a municipality to determine that each unit of real property included in a resolution to authorize municipal urban renewal has the characteristics of blight and to include in the resolution a complete legal description of each unit of property, rather than the area, included in the proposed project and a statement that each unit of property has the characteristics of blight.

H.B. 1389 prohibits an area from being considered a blighted area unless the municipality has given notice in writing to the property owner by first class mail regarding the condition to the last known address of the property owner and physical address of the property, and the property owner fails to take reasonable measures to remedy the condition. The bill requires the municipality, if a mailing address for the property owner cannot be determined, to post notice in writing regarding the condition in a conspicuous place on the property. The bill establishes that an area may not be considered a blighted area solely for an aesthetic reason and that a determination by a municipality that a unit of real property has the characteristics of blight is valid for two years. The bill authorizes a municipality, after the two-year period, to make a new determination that the unit of real property has the characteristics of blight and to redesignate the unit of real property as a blighted area for another two-year period. The bill authorizes a municipality to remove a determination of blight if the municipality finds that the property owner has remedied the condition that was the basis for the determination.

H.B. 1389 authorizes a municipality, if the municipality determines that two or more contiguous units of real property that are owned by the same person have the characteristics of blight, to treat those units of property as one unit of property for purposes of municipal urban renewal and remedies relating to eminent domain under the Property Code.

H.B. 1389 amends the Property Code to specify that the requirement for special commissioners in an eminent domain proceeding to admit evidence on the injury to the property owner from a condemnation includes, if the condemnation makes relocation of a homestead or farm necessary, the financial damages associated with the cost of relocating from the condemned property to another property that allows the property owner, without the necessity of incurring an amount of debt, debt service, or total projected interest obligation that is higher than the property owner was subject to immediately before the condemnation, to have a standard of living comparable to the property owner's standard of living immediately before the condemnation, if the condemned property is a homestead that is habitable, or to operate a comparable farm, if the condemned property is a farm. The bill adds a property owner's financial damages described by law to provisions requiring the special commissioners to consider an injury or benefit that is peculiar to the property owner and that relates to the property owner's ownership, use, or enjoyment of the property in assessing damages in a condemnation proceeding. The bill requires, rather than authorizes, a department, agency, instrumentality, or political subdivision of Texas to provide a relocation advisory service that is compatible with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, rather than the Federal Uniform Relocation

Assistance Advisory Program under provisions relating to a relocation assistance program. The bill requires, rather than authorizes, the state or a political subdivision, as a cost of acquiring real property, to pay moving expenses and rental supplements and make certain other payments to a person, family, business, or nonprofit organization that is displaced in connection with the acquisition.

H.B. 1389 repeals Sections 374.003(19) and 374.016, Local Government Code.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.