

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 192

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO EMINENT DOMAIN; AMENDING SECTION 7-701A, IDAHO CODE, TO PROVIDE
ADDITIONAL RESTRICTIONS ON THE USE OF EMINENT DOMAIN AND TO MAKE A TECH-
NICAL CORRECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 7-701A, Idaho Code, be, and the same is hereby
amended to read as follows:

7-701A. LIMITATION ON EMINENT DOMAIN FOR PRIVATE PARTIES, URBAN
RENEWAL OR ECONOMIC DEVELOPMENT PURPOSES. (1) This section limits and re-
stricts the use of eminent domain under the laws of this state or local
ordinance by the state of Idaho, its instrumentalities, political subdi-
visions, public agencies, or bodies corporate and politic of the state to
condemn any interest in property in order to convey the condemned interest to
a private interest or person as provided herein.

(2) Eminent domain shall not be used to acquire private property:

(a) For any alleged public use which is merely a pretext for the trans-
fer of the condemned property or any interest in that property to a pri-
vate party; or

(b) For the purpose of promoting or effectuating economic development;
provided however, that nothing herein shall affect the exercise of emi-
nent domain:

(i) Pursuant to chapter 15, title 70, Idaho Code, and title 42,
Idaho Code; or

(ii) Pursuant to chapters 19, 20 or 29, title 50, Idaho Code, ex-
cept that no private property shall be taken through exercise of
eminent domain within the area of operation of a housing authority
or within an urban renewal area or within a deteriorated or deteri-
orating area or within a competitively disadvantaged border com-
munity area unless the specific property to be condemned is proven
by clear and convincing evidence to be in such condition that it
meets all of the requirements:

1. The property, due to general dilapidation, compromised
structural integrity, or failed mechanical systems, endan-
gers life or endangers property by fire or by other perils
that pose an actual identifiable threat to building occu-
pants; and

2. The property contains specifically identifiable condi-
tions that pose an actual risk to human health, transmission
of disease, juvenile delinquency or criminal content; and

3. The property presents an actual risk of harm to the public
health, safety, morals or general welfare; or

(iii) For those public and private uses for which eminent domain is expressly provided in the constitution of the state of Idaho.

(c) For purposes solely recreational in nature, including bike paths, walking paths, greenways, or other alternate or limited use transportation corridors, provided however, that nothing herein shall affect the exercise of eminent domain where such bike paths, walking paths, greenways or other alternate or limited use corridors are immediately adjacent and parallel to existing or permitted bridges, toll roads, byroads, plank and turnpike roads, and steam or electric railroads.

(3) This section shall not affect the authority of a governmental entity to condemn a leasehold estate on property owned by the governmental entity.

(4) The rationale for condemnation by the governmental entity proposing to condemn property shall be freely reviewable in the course of judicial proceedings involving exercise of the power of eminent domain.