

SENATE BILL NO. 1

INTRODUCED BY G. HERTZ

BY REQUEST OF THE REVENUE INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATEMENT OF POLICY AND THE DEFINITION OF "BLIGHTED AREA" FOR MUNICIPALITIES EXERCISING URBAN RENEWAL POWERS, INCLUDING TAX INCREMENT FINANCING; AMENDING SECTIONS 7-15-4202, 7-15-4206, 7-15-4210, 7-15-4259, AND 70-30-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 7-15-4202, MCA, is amended to read:

"7-15-4202. Existence of blighted areas and resulting problems -- statement of policy. ~~It is hereby found and declared:~~

~~(1) — that blighted areas which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state, exist in municipalities of the state;~~

~~(2) — that the existence of such areas:~~

~~(1) The legislature finds and declares blighted areas exist within municipalities of the state that:~~

~~(a) — are injurious to the public health, safety, and welfare of the residents of the state;~~

~~(a)(b) contributes substantially and increasingly contribute to the spread of disease and crime and depreciation of property values;~~

~~(b)(c) constitutes constitute an economic and social liability;~~

~~(e)(d) substantially impairs or arrests impair the sound growth of municipalities communities;~~

~~(d) — retards the provision of housing accommodations;~~

~~(e) — constitute an impediment to developing and maintaining adequate housing; and~~

~~(e)(f) aggravates aggravate traffic problems and hazards.; and~~

~~(f) — substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and~~

(3)(2) that the prevention and elimination of such Elimination of blighted areas is a matter of state policy and state concern ~~in order~~ so that the state and its municipalities ~~shall~~ do not continue to be endangered by areas ~~which~~ that are focal centers of disease, ~~promote juvenile delinquency and crime~~, are conducive to fires, are difficult to police and to provide police protection for, and, while contributing little to the tax income of the state and its municipalities, consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization, sanitation, and other forms of public protection, services, and facilities.

(3) The state's tax increment financing laws must be used to encourage the development or redevelopment of blighted areas."

Section 2. Section 7-15-4206, MCA, is amended to read:

"7-15-4206. Definitions. The following terms, wherever used or referred to in part 43 or this part, have the following meanings unless a different meaning is clearly indicated by the context:

(1) "Agency" or "urban renewal agency" means a public agency created by 7-15-4232.

(2) "Blighted area" means an area that ~~is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, that substantially impairs or arrests the sound growth of the city or its environs, that retards the provision of housing accommodations, or that constitutes an economic or social liability or is detrimental or constitutes a menace is determined to be detrimental~~ to the public health, safety, or welfare, and morals in its present condition and use, by reason of due to the presence of at least three of the following characteristics or conditions:

(a) ~~the substantial physical dilapidation, deterioration, age obsolescence, or defective construction, material, and arrangement of buildings or improvements, whether residential or nonresidential;~~

(b) ~~inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality;~~

(c) ~~inappropriate or mixed uses of land or buildings;~~

(d) ~~high density of population and overcrowding;~~

(e) ~~defective or inadequate street layout;~~

(f) — faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(g) — excessive land coverage;

(h) — unsanitary or unsafe conditions;

(i) — deterioration of site;

(j) — diversity of ownership;

(a) — an advanced state of disrepair or neglect of necessary repairs to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required, or the defects are so serious and so extensive that the buildings must be removed;

(b) — structures that have become ill-suited for their original use;

(c) — deterioration of building structure components or infrastructure, such as roadways, alleys, curbs, gutters, and sidewalks;

(d) — buildings or structures that endanger the life, limb, health, property, or safety of the general public or their occupants;

(e) — inadequate utilities and infrastructure, such as storm sewers and storm drainage, sanitary sewers, water lines, power, roadways, alleys, curbs, gutters, sidewalks, and communication services, that are shown to be lacking, of insufficient capacity to serve the uses in the area, deteriorated, antiquated, obsolete, or in disrepair;

(f) — real property in the area that has incurred or may incur future planned Montana department of environmental quality or United States environmental protection agency remediation costs; ~~or~~

(k)(g) — tax or special assessment delinquency exceeding the fair value of a majority of the land and improvements; ~~or~~

(h) — excessive vacancies occurring in buildings that are unoccupied and underutilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies;

(l) — defective or unusual conditions of title;

(m) — improper subdivision or obsolete platting;

(n) — the existence of conditions that endanger life or property by fire or other causes; or

(o) — any combination of the factors listed in this subsection (2).

Amendment - 1st Reading-white - Requested by: Greg Hertz - (S) Taxation

- 2025

69th Legislature 2025

Drafter: Jaret Coles,

SB0001.001.005

(3) "Bonds" means any bonds, notes, or debentures, including refunding obligations, authorized to be issued pursuant to part 43 or this part.

(4) "Clerk" means the clerk or other official of the municipality who is the custodian of the official records of the municipality.

(5) "Elected" means chosen by vote or acclamation or appointed to a vacancy in an otherwise elected position.

(6) "Federal government" means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(7) "Local governing body" means the elected members of a council or other elected members of a legislative body charged with governing a municipality or consolidated city-county.

(8) "Mayor" means the chief executive of a city or town.

(9) "Municipality" means any incorporated city or town in the state.

(10) "Neighborhood development program" means the yearly activities or undertakings of a municipality in an urban renewal area or areas if the municipality elects to undertake activities on an annual increment basis.

(11) "Obligee" means any bondholder or agent or trustee for any bondholder or lessor conveying to the municipality property used in connection with an urban renewal project or any assignee or assignees of the lessor's interest or any part of the interest and the federal government when it is a party to any contract with the municipality.

(12) "Person" means any individual, firm, partnership, corporation, company, association, joint-stock association, or school district and includes any trustee, receiver, assignee, or other person acting in a similar representative capacity.

(13) "Public body" means the state or any municipality, township, board, commission, district, or other subdivision or public body of the state.

(14) "Public officer" means any officer who is in charge of any department or branch of the government of the municipality relating to health, fire, building regulations, or other activities concerning dwellings in the municipality.

(15) "Public use" means:

(a) a public use enumerated in 70-30-102; or

(b) a project financed by the method provided for in 7-15-4288.

(16) "Real property" means all lands, including improvements and fixtures on the land, all property of any nature appurtenant to the land or used in connection with the land, and every estate, interest, right, and use, legal or equitable, in the land, including terms for years and liens by way of judgment, mortgage, or otherwise.

(17) "Redevelopment" may include:

(a) acquisition of a blighted area or portion of the area;

(b) demolition and removal of buildings and improvements;

(c) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this part in accordance with the urban renewal plan; and

(d) making the land available for development or redevelopment by private enterprise or public agencies, including sale, initial leasing, or retention by the municipality itself, at its fair value for uses in accordance with the urban renewal plan. If the property is condemned pursuant to Title 70, chapter 30, the private enterprise or public agencies may not develop the condemned area in a way that is not for a public use.

(18) (a) "Rehabilitation" may include the restoration and renewal of a blighted area or portion of the area in accordance with an urban renewal plan by:

(i) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements;

(ii) acquisition of real property and demolition or removal of buildings and improvements on the property when necessary to eliminate unhealthful, unsanitary, or unsafe conditions, to lessen density, to reduce traffic hazards, to eliminate obsolete or other uses detrimental to the public welfare, to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities;

(iii) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this part; and

(iv) subject to 7-15-4259(4), the disposition of any property acquired in the urban renewal area, including sale, initial leasing, or retention by the municipality itself, at its fair value for uses in accordance with

1 the urban renewal plan.

2 (b) Rehabilitation may not include the development of the condemned area in a way that is not for
3 a public use if the property is condemned pursuant to Title 70, chapter 30.

4 (19) "Urban renewal area" means a blighted area that the local governing body designates as
5 appropriate for an urban renewal project or projects.

6 (20) "Urban renewal plan" means a plan for one or more urban renewal areas or for an urban
7 renewal project. The plan:

8 (a) must conform to the growth policy if one has been adopted pursuant to Title 76, chapter 1; and

9 (b) must be sufficiently complete to indicate, on a yearly basis or otherwise:

10 (i) any land acquisition, demolition, and removal of structures; redevelopment; improvements; and
11 rehabilitation that is proposed to be carried out in the urban renewal area;

12 (ii) zoning and planning changes, if any, including changes to the growth policy if one has been
13 adopted pursuant to Title 76, chapter 1;

14 (iii) land uses, maximum densities, building requirements; and

15 (iv) the plan's relationship to definite local objectives respecting appropriate land uses, improved
16 traffic, public transportation, public utilities, recreational and community facilities, and other public
17 improvements.

18 (21) (a) "Urban renewal project" may include undertakings or activities of a municipality in an urban
19 renewal area for the elimination and for the prevention of the development or spread of blight and may involve
20 redevelopment in an urban renewal area, rehabilitation or conservation in an urban renewal area, or any
21 combination or part of redevelopment, rehabilitation, or conservation in accordance with an urban renewal plan.

22 (b) An urban renewal project may not include using property that was condemned pursuant to Title
23 70, chapter 30, for anything other than a public use."

24

25 **Section 3.** Section 7-15-4210, MCA, is amended to read:

26 **"7-15-4210. Resolution of necessity required to utilize provisions of part.** A municipality may not
27 exercise any of the powers authorized by part 43 and this part until after its local governing body has adopted a
28 resolution finding that:

(1) one or more blighted areas exist in the municipality by finding that at least three of the factors listed in 7-15-4206(2) apply to the area or a part of the area; and

(2) the rehabilitation, redevelopment, or both of an area or areas are necessary in the interest of the public health, safety, ~~morals~~, or welfare of the residents of the municipality."

Section 4. Section 7-15-4259, MCA, is amended to read:

"7-15-4259. Exercise of power of eminent domain. (1) After the adoption by the local governing body of a resolution declaring that the acquisition of the real property described in the resolution is necessary for an urban renewal project under this part, a municipality may acquire by condemnation, as provided in Title 70, chapter 30, any interest in real property that it considers necessary for urban renewal.

(2) Condemnation for urban renewal of blighted areas, as defined in 7-15-4206(2)(a), ~~(2)(h), (2)(k), or (2)(n)~~ (2)(d), or (2)(g), or (2)(h), is a public use, and property already devoted to any other public use or acquired by the owner or the owner's predecessor in interest by eminent domain may be condemned for the purposes of this part.

(3) The award of compensation for real property taken for an urban renewal project may not be increased by reason of any increase in the value of the real property caused by the assembly, clearance, or reconstruction or proposed assembly, clearance, or reconstruction in the project area. An allowance may not be made for the improvements begun on real property after notice to the owner of the property of the institution of proceedings to condemn the property. Evidence is admissible bearing upon the unsanitary, unsafe, or substandard condition of the premises or the unlawful use of the premises.

(4) A city or town may not serve as a pass-through entity by using its power of eminent domain, as provided in Title 70, chapter 30, to obtain property with the intent to sell, lease, or provide the property to a private entity."

Section 5. Section 70-30-102, MCA, is amended to read:

"70-30-102. Public uses enumerated. Subject to the provisions of this chapter, the right of eminent domain may be exercised for the following public uses:

(1) all public uses authorized by the government of the United States;

- (2) public buildings and grounds for the use of the state and all other public uses authorized by the legislature of the state;
- (3) public buildings and grounds for the use of any county, city, town, or school district;
- (4) canals, aqueducts, flumes, ditches, or pipes conducting water, heat, or gas for the use of the inhabitants of any county, city, or town;
- (5) projects to raise the banks of streams, remove obstructions from streambanks, and widen, deepen, or straighten stream channels;
- (6) water and water supply systems as provided in Title 7, chapter 13, part 44;
- (7) roads, streets, alleys, controlled-access facilities, and other publicly owned buildings and facilities for the benefit of a county, city, or town or the inhabitants of a county, city, or town;
- (8) acquisition of road-building material as provided in 7-14-2123;
- (9) stock lanes as provided in 7-14-2621;
- (10) parking areas as provided in 7-14-4501 and 7-14-4622;
- (11) airport purposes as provided in 7-14-4801, 67-2-301, 67-7-210, and Title 67, chapters 10 and 11;
- (12) urban renewal projects as provided in Title 7, chapter 15, parts 42 and 43, except that private property may be acquired for urban renewal through eminent domain only if the property is determined to be a blighted area, as defined in 7-15-4206(2)(a), ~~(2)(h), (2)(k), or (2)(n)~~ (2)(d), or (2)(g), or (2)(h), and may not be acquired for urban renewal through eminent domain if the purpose of the project is to increase government tax revenue;
- (13) housing authority purposes as provided in Title 7, chapter 15, part 44;
- (14) city or town athletic fields and civic stadiums as provided in 7-16-4106;
- (15) county cemetery purposes pursuant to 7-11-1021, cemetery association purposes as provided in 35-20-104, and state veterans' cemetery purposes as provided in 10-2-604;
- (16) preservation of historical or archaeological sites as provided in 23-1-102 and 87-1-209(2);
- (17) public assistance purposes as provided in 53-2-201;
- (18) highway purposes as provided in 60-4-103 and 60-4-104;
- (19) common carrier pipelines as provided in 69-13-104;

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- 2025

69th Legislature 2025

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SB0001.001.005

- 1 (20) water supply, water transportation, and water treatment systems as provided in 75-6-313;
- 2 (21) mitigation of the release or threatened release of a hazardous or deleterious substance as
- 3 provided in 75-10-720;
- 4 (22) the acquisition of nonconforming outdoor advertising as provided in 75-15-123;
- 5 (23) screening for or the relocation or removal of junkyards, motor vehicle graveyards, motor vehicle
- 6 wrecking facilities, garbage dumps, and sanitary landfills as provided in 75-15-223;
- 7 (24) water conservation and flood control projects as provided in 76-5-1108;
- 8 (25) acquisition of water rights for the natural flow of water as provided in 85-1-204;
- 9 (26) property and water rights necessary for waterworks as provided in 85-1-209 and 85-7-1904;
- 10 (27) conservancy district purposes as provided in 85-9-410;
- 11 (28) wharves, docks, piers, chutes, booms, ferries, bridges, private roads, plank and turnpike roads,
- 12 and railroads;
- 13 (29) canals, ditches, flumes, aqueducts, and pipes for:
- 14 (a) supplying mines, mills, and smelters for the reduction of ores;
- 15 (b) supplying farming neighborhoods with water and drainage;
- 16 (c) reclaiming lands; and
- 17 (d) floating logs and lumber on streams that are not navigable;
- 18 (30) sites for reservoirs necessary for collecting and storing water. However, reservoir sites must
- 19 possess a public use demonstrable to the district court as the highest and best use of the land.
- 20 (31) roads, tunnels, and dumping places for working mines, mills, or smelters for the reduction of
- 21 ores;
- 22 (32) outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from
- 23 mines, mills, and smelters for the reduction of ores;
- 24 (33) an occupancy in common by the owners or the possessors of different mines of any place for
- 25 the flow, deposit, or conduct of tailings or refuse matter from their several mines, mills, or smelters for reduction
- 26 of ores and sites for reservoirs necessary for collecting and storing water for the mines, mills, or smelters.
- 27 However, the reservoir sites must possess a public use demonstrable to the district court as the highest and
- 28 best use of the land.

(34) private roads leading from highways to residences or farms;

(35) telephone or electrical energy lines, except that local government entities as defined in 2-7-501, municipal utilities, or competitive electricity suppliers may not use this chapter to acquire existing telephone or electrical energy lines and appurtenant facilities owned by a public utility or cooperative for the purpose of transmitting or distributing electricity or providing telecommunications services;

(36) telegraph lines;

(37) sewerage of any:

(a) county, city, or town or any subdivision of a county, city, or town, whether incorporated or unincorporated;

(b) settlement consisting of not less than 10 families; or

(c) public buildings belonging to the state or to any college or university;

(38) tramway lines;

(39) logging railways;

(40) temporary logging roads and banking grounds for the transportation of logs and timber products to public streams, lakes, mills, railroads, or highways for a time that the court or judge may determine. However, the grounds of state institutions may not be used for this purpose.

(41) underground reservoirs suitable for storage of natural gas;

(42) projects to mine and extract ores, metals, or minerals owned by the condemnor located beneath or upon the surface of property where the title to the surface vests in others. However, the use of the surface of property for strip mining or open-pit mining of coal (i.e., any mining method or process in which the strata or overburden is removed or displaced in order to extract the coal) is not a public use, and eminent domain may not be exercised for this purpose.

(43) projects to restore and reclaim lands that were strip-mined or underground-mined for coal and not reclaimed in accordance with Title 82, chapter 4, part 2, and to abate or control adverse effects of strip or underground mining on those lands."

NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

69th Legislature 2025

SB0001.001.005

3 - END -