



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4091

Introduced 7/7/2005, by Rep. Eileen Lyons - Ron Stephens - Bill Mitchell - Jim Sacia - Ruth Munson, et al.

SYNOPSIS AS INTRODUCED:

5 ILCS 70/10 new

Amends the Statute on Statutes. Requires all takings under the power of eminent domain to be for a "qualified public use". Provides that it is a "qualified public use" to exercise the power of eminent domain for the acquisition of property for public ownership and control. Prohibits the exercise of the power of eminent domain for private ownership or control, including for economic development, unless it is specifically and expressly authorized by law by the General Assembly. Preempts home rule powers. Effective immediately.

LRB094 12803 MKM 47647 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Statute on Statutes is amended by adding
5 Section 10 as follows:

6 (5 ILCS 70/10 new)

7 Sec. 10. Exercise of the power of eminent domain; qualified
8 public use.

9 (a) Neither the State, a unit of local government, nor a
10 school district may take or damage property by the exercise of
11 the power of eminent domain unless it is for a "qualified
12 public use", as defined under this Section.

13 (b) It is a "qualified public use" to exercise the power of
14 eminent domain for the acquisition of property (i) for public
15 ownership and control by the State, a unit of local government,
16 a school district, or any combination of those entities and
17 (ii) for a public purpose. It is not a "qualified public use",
18 however, to exercise the power of eminent domain to acquire
19 property for private ownership or control, including for
20 economic development, unless acquisition of property for
21 private ownership or control is (i) for a public purpose and
22 (ii) specifically and expressly authorized by law enacted by
23 the General Assembly on, before, or after the effective date of
24 this amendatory Act of the 94th General Assembly.

25 (c) "Private ownership or control" shall be liberally
26 construed to prevent the use of long-term leases, options to
27 purchase, and other mechanisms intended to defeat the purpose
28 of this Section, which is to limit the acquisition of property
29 by eminent domain when it is primarily for the benefit and use
30 of private entities.

31 (d) This Section is a limitation on the exercise of the
32 power of eminent domain, but is not an independent grant of

1 authority to exercise the power of eminent domain.

2 (e) The authorization of the use of eminent domain
3 proceedings to take or damage property is an exclusive power
4 and function of the State. Neither the State, a unit of local
5 government, including a home rule unit, nor a school district
6 may exercise the power of eminent domain otherwise than as
7 provided in this Section. This Section is a denial and
8 limitation of home rule powers and functions under subsection
9 (h) of Section 6 of Article VII of the Illinois Constitution.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.