



General Assembly

January Session, 2019

Committee Bill No. 5123

LCO No. 6632



Referred to Committee on PLANNING AND DEVELOPMENT

Introduced by:
(PD)

AN ACT PROHIBITING THE USE OF EMINENT DOMAIN FOR CERTAIN COMMERCIAL PURPOSES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (1) of subsection (a) of section 8-127a of the
2 general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2019, and applicable to property acquired on or*
4 *after October 1, 2019*):

5 (a) (1) No real property may be acquired by a redevelopment
6 agency by eminent domain pursuant to section 8-128 under a
7 redevelopment plan under this chapter for the purpose of producing
8 income from such real property to a private entity or for the primary
9 purpose of increasing local tax revenue.

10 Sec. 2. Subdivision (3) of section 8-125 of the general statutes is
11 repealed and the following is substituted in lieu thereof (*Effective*
12 *October 1, 2019, and applicable to property acquired on or after October 1,*
13 *2019*):

14 (3) A "redevelopment plan" means a plan that includes: (A) (i) A
15 description of the redevelopment area and the condition, type and use
16 of the structures therein, and (ii) specification of each parcel proposed
17 to be acquired, including parcels to be acquired by eminent domain;
18 (B) the location and extent of the land uses, other than the production
19 of income from any such parcel acquired by eminent domain to a
20 private entity, proposed for and within the redevelopment area, such
21 as housing, recreation, business, industry, schools, civic activities, open
22 spaces or other categories of public and private uses; (C) the location
23 and extent of streets and other public utilities, facilities and works
24 within the redevelopment area; (D) schedules showing the number of
25 families displaced by the proposed improvement, the method of
26 temporary relocation of such families and the availability of sufficient
27 suitable living accommodations at prices and rentals within the
28 financial reach of such families and located within a reasonable
29 distance of the area from which such families are displaced; (E) present
30 and proposed zoning regulations in the redevelopment area; (F) a
31 description of how the redevelopment area is deteriorated,
32 deteriorating, substandard or detrimental to the safety, health, morals
33 or welfare of the community; and (G) any other detail including
34 financial aspects of redevelopment which, in the judgment of the
35 redevelopment agency authorized herein, is necessary to give it
36 adequate information;

37 Sec. 3. Subsection (b) of section 8-127 of the general statutes is
38 repealed and the following is substituted in lieu thereof (*Effective*
39 *October 1, 2019*):

40 (b) Before approving any redevelopment plan, the redevelopment
41 agency shall hold a public hearing on the plan, notice of which shall be
42 published at least twice in a newspaper of general circulation in the
43 municipality, the first publication of notice to be not less than two
44 weeks before the date set for the hearing. At least thirty-five days prior
45 to any public hearing, the redevelopment agency shall post the plan on
46 the Internet web site of the redevelopment agency, if any. The

47 redevelopment agency may approve any such redevelopment plan if,
48 following such hearing, it finds that: (1) The area in which the
49 proposed redevelopment is to be located is a redevelopment area; (2)
50 the carrying out of the redevelopment plan will result in materially
51 improving conditions in such area; (3) sufficient living
52 accommodations are available within a reasonable distance of such
53 area or are provided for in the redevelopment plan for families
54 displaced by the proposed improvement, at prices or rentals within the
55 financial reach of such families; (4) the redevelopment plan is
56 satisfactory as to site planning, relation to the plan of conservation and
57 development of the municipality adopted under section 8-23 and,
58 except when the redevelopment agency has prepared the
59 redevelopment plan, the construction and financial ability of the
60 redeveloper to carry it out; (5) the planning agency has issued a
61 written opinion in accordance with subsection (a) of this section that
62 the redevelopment plan is consistent with the plan of conservation and
63 development of the municipality adopted under section 8-23; and (6)
64 (A) public benefits resulting from the redevelopment plan will
65 outweigh any private benefits; (B) existing use of the real property
66 cannot be feasibly integrated into the overall redevelopment plan for
67 the project; (C) acquisition by eminent domain is reasonably necessary
68 to successfully achieve the objectives of such redevelopment plan; and
69 (D) the redevelopment plan is not for the purpose of producing income
70 from such real property to a private entity or for the primary purpose
71 of increasing local tax revenues. No redevelopment plan for a project
72 that consists predominantly of residential facilities shall be approved
73 by the redevelopment agency in any municipality having a housing
74 authority organized under the provisions of chapter 128 except with
75 the approval of such housing authority.

76 Sec. 4. Subdivision (1) of subsection (b) of section 8-193 of the
77 general statutes is repealed and the following is substituted in lieu
78 thereof (*Effective October 1, 2019, and applicable to property acquired on or*
79 *after October 1, 2019*):

80 (b) (1) The development agency may, with the approval of the
81 legislative body in accordance with this subsection, and in the name of
82 the municipality, acquire by eminent domain real property located
83 within the project area and real property and interests therein for
84 rights-of-way and other easements to and from the project area, in the
85 same manner that a redevelopment agency may acquire real property
86 under sections 8-128 to 8-133, inclusive, as if said sections specifically
87 applied to development agencies, except that no real property may be
88 acquired by eminent domain pursuant to this subsection for the
89 purpose of producing income from such real property to a private
90 entity or for the primary purpose of increasing local tax revenue.

91 Sec. 5. Section 8-187 of the general statutes is repealed and the
92 following is substituted in lieu thereof (*Effective October 1, 2019, and*
93 *applicable to property acquired on or after October 1, 2019*):

94 As used in this chapter, (1) "municipality" means a town, city,
95 consolidated town and city or consolidated town and borough; (2)
96 "legislative body" means (A) the board of selectmen in a town that
97 does not have a charter, special act or home rule ordinance relating to
98 its government or (B) the council, board of aldermen, representative
99 town meeting, board of selectmen or other elected legislative body
100 described in a charter, special act or home rule ordinance relating to
101 government in a city, consolidated town and city, consolidated town
102 and borough or a town having a charter, special act, consolidation
103 ordinance or home rule ordinance relating to its government; (3)
104 "development agency" means the agency designated by a municipality
105 under section 8-188 through which the municipality may exercise the
106 powers granted under this chapter; (4) "development project" means a
107 project conducted by a municipality for the assembly, improvement
108 and disposition of land or buildings or both to be used principally for
109 industrial or business purposes and includes vacated commercial
110 plants; (5) "vacated commercial plants" means buildings formerly used
111 principally for business or industrial purposes of which more than fifty
112 per cent of the usable floor space is, or which it is anticipated, within

113 eighteen months, shall be, unused or substantially underutilized; (6)
114 "project area" means the area within which the development project is
115 located; (7) "commissioner" means the Commissioner of Economic and
116 Community Development; (8) "planning commission" means the
117 planning and zoning commission designated pursuant to section 8-4a
118 or the planning commission created pursuant to section 8-19; (9) "real
119 property" means land, subterranean or subsurface rights, structures,
120 any and all easements, air rights and franchises and every estate, right
121 or interest therein; and (10) "business purpose" includes, but is not
122 limited to, any commercial, financial or retail enterprise, [and includes]
123 including any enterprise which promotes tourism, [and] but excludes
124 any property that produces income to a private entity.

125 Sec. 6. Subsection (a) of section 8-189 of the general statutes is
126 repealed and the following is substituted in lieu thereof (*Effective*
127 *October 1, 2019, and applicable to property acquired on or after October 1,*
128 *2019*):

129 (a) The development agency may initiate a development project by
130 preparing a project plan in accordance with regulations adopted by the
131 commissioner pursuant to section 8-198. The project plan shall meet an
132 identified public need and include: (1) A legal description of the land
133 within the project area; (2) a description of the present condition and
134 uses of such land or building; (3) a description of the process utilized
135 by the agency to prepare the plan and a description of alternative
136 approaches considered to achieve project objectives; (4) a description
137 of the types and locations of land uses or building uses proposed for
138 the project area; (5) a description of the types and locations of present
139 and proposed streets, sidewalks and sanitary, utility and other
140 facilities and the types and locations of other proposed site
141 improvements; (6) statements of the present and proposed zoning
142 classification and subdivision status of the project area and the areas
143 adjacent to the project area; (7) a plan for relocating project-area
144 occupants; (8) a financing plan; (9) an administrative plan; (10) a
145 marketability and proposed land-use study or building use study if

146 required by the commissioner; (11) appraisal reports and title searches;
147 (12) a description of the public benefits of the project including, but not
148 limited to, (A) the number of jobs which the development agency
149 anticipates would be created by the project; (B) the estimated property
150 tax benefits; (C) the number and types of existing housing units in the
151 municipality in which the project would be located, and in contiguous
152 municipalities, which would be available to employees filling such
153 jobs; (D) a general description of infrastructure improvements,
154 including public access, facilities or use, that the development agency
155 anticipates may be needed to implement the development plan; (E) a
156 general description of the development agency's goals for blight
157 remediation or, if known, environmental remediation; (F) a general
158 description of any aesthetic improvements that the development
159 agency anticipates may be generated by the project; (G) a general
160 description of the project's intended role in increasing or sustaining
161 market value of land in the municipality; (H) a general description of
162 the project's intended role in assisting residents of the municipality to
163 improve their standard of living; and (I) a general statement of the
164 project's role in maintaining or enhancing the competitiveness of the
165 municipality; (13) findings that (A) the land and buildings within the
166 project area will be used principally for industrial or business
167 purposes; (B) the plan is in accordance with the plan of conservation
168 and development for the municipality adopted by its planning
169 commission under section 8-23, and the plan of development of the
170 regional council of governments adopted under section 8-35a, if any,
171 for the region within which the municipality is located; (C) the plan
172 was prepared giving due consideration to the state plan of
173 conservation and development adopted under chapter 297 and any
174 other state-wide planning program objectives of the state or state
175 agencies as coordinated by the Secretary of the Office of Policy and
176 Management; and (D) the project will contribute to the economic
177 welfare of the municipality and the state; and that to carry out and
178 administer the project, public action under this chapter is required;
179 and (14) a preliminary statement describing the proposed process for

180 acquiring each parcel of real property, including findings that (A)
181 public benefits resulting from the development plan will outweigh any
182 private benefits; (B) existing use of the real property cannot be feasibly
183 integrated into the overall development plan for the project; (C)
184 acquisition by eminent domain is reasonably necessary to successfully
185 achieve the objectives of such development plan; and (D) the
186 development plan is not for the purpose of producing income from
187 such real property to a private entity or for the primary purpose of
188 increasing local tax revenues. Any plan that has been prepared by a
189 redevelopment agency under chapter 130 may be submitted by the
190 development agency to the legislative body and to the commissioner
191 for approval in lieu of a plan initiated and prepared in accordance with
192 this section, provided all other requirements of this chapter for
193 obtaining the approval of the commissioner of the project plan are
194 satisfied.

195 Sec. 7. Subdivision (1) of subsection (i) of section 32-224 of the
196 general statutes is repealed and the following is substituted in lieu
197 thereof (*Effective October 1, 2019, and applicable to property acquired on or*
198 *after October 1, 2019*):

199 (i) (1) The implementing agency may, with the approval of the
200 legislative body of the municipality, and in the name of the
201 municipality, condemn in accordance with section 8-128 to 8-133,
202 inclusive, any real property necessary or appropriate for the project as
203 identified in the development plan, including real property and
204 interests in land for rights-of-way and other easements to and from the
205 project area, except that no real property may be condemned pursuant
206 to this subsection for the purpose of producing income from such real
207 property to a private entity or for the primary purpose of increasing
208 local tax revenue.

209 Sec. 8. Subsection (a) of section 32-222 of the general statutes is
210 repealed and the following is substituted in lieu thereof (*Effective*
211 *October 1, 2019, and applicable to property acquired on or after October 1,*

212 2019):

213 (a) "Business development project" means a project undertaken by
214 an eligible applicant involving one or more of the following:

215 (1) The construction, substantial renovation, improvement or
216 expansion of a facility;

217 (2) The acquisition of new machinery and equipment;

218 (3) The acquisition, other than by condemnation for the purpose of
219 producing income to a private entity, improvement, demolition,
220 cultivation or disposition of real property, or combinations thereof, or
221 the remediation of contaminated real property;

222 (4) The creation at a facility, within twenty-four months of the
223 initiation of a hiring program, not less than ten new jobs or an increase
224 in the number of persons employed at the facility of twenty per cent,
225 whichever is greater;

226 (5) Economic diversification of the economy of an area of the state or
227 manufacturing or other economic base business where such area or
228 business is substantially reliant upon defense and related industry;

229 (6) Participation in the avoidance of an imminent plant closing or
230 relocation by a manufacturing or other economic base business or
231 assist or improve the economy of an area of the state which has been or
232 is likely to be significantly and adversely impacted by one or more
233 major plant closings or relocations;

234 (7) Support research and development or commercialization of
235 technologies, products, processes or techniques of a manufacturing or
236 other economic base business;

237 (8) Creation or support of organizations and activities specifically
238 leveraging federal resources that provide technical and engineering
239 assistance to small manufacturers or other economic base businesses to

240 assist them with the design, testing, manufacture and marketing of
241 new products, the exporting of state products and services, and the
242 instruction and implementation of new techniques and technologies;

243 (9) Support of substantial workforce development efforts;

244 (10) Promotion of community conservation or development or
245 improvement of the quality of life for urban residents of the state;

246 (11) Promotion of the revitalization of underutilized, state-owned
247 former railroad depots and areas adjacent to such depots; or

248 (12) Promotion of export activities, including sponsorship of
249 programs that support exportation, assistance to companies in
250 accessing federal Department of Commerce services, and provision of
251 marketing materials and web site improvements for exporters;

252 Sec. 9. Subsection (b) of section 32-224 of the general statutes is
253 repealed and the following is substituted in lieu thereof (*Effective*
254 *October 1, 2019, and applicable to property acquired on or after October 1,*
255 *2019*):

256 (b) The implementing agency may initiate a municipal development
257 project by preparing and submitting a development plan to the
258 commissioner. Such plan shall meet an identified public need and
259 include: (1) A legal description of the real property within the
260 boundaries of the project area; (2) a description of the present
261 condition and uses of such real property; (3) a description of the
262 process utilized by the agency to prepare the plan and a description of
263 alternative approaches considered to achieve project objectives; (4) a
264 description of the types and locations of land uses or building uses
265 proposed for the project area; (5) a description of the types and
266 locations of present and proposed streets, sidewalks and sanitary,
267 utility and other facilities and the types and locations of other
268 proposed project improvements; (6) statements of the present and
269 proposed zoning classification and subdivision status of the project

270 area and the areas adjacent to the project area; (7) a plan for relocating
271 project area occupants; (8) a financing plan; (9) an administrative plan;
272 (10) an environmental analysis, marketability and proposed land use
273 study, or building use study if required by the commissioner; (11)
274 appraisal reports and title searches if required by the commissioner;
275 (12) a description of the public benefit of the project, including, but not
276 limited to, (A) the number of jobs which the implementing agency
277 anticipates would be created or retained by the project, (B) the
278 estimated property tax benefits, (C) the number and types of existing
279 housing units in the municipality in which the project would be
280 located, and in contiguous municipalities, which would be available to
281 employees filling such jobs, (D) a general description of infrastructure
282 improvements, including public access, facilities or use, that the
283 implementing agency anticipates may be needed to implement the
284 development plan, (E) a general description of the implementing
285 agency's goals for blight remediation or, if known, environmental
286 remediation, (F) a general description of any aesthetic improvements
287 that the implementing agency anticipates may be generated by the
288 project, (G) a general description of the project's intended role in
289 increasing or sustaining market value of land in the municipality, (H) a
290 general description of the project's intended role in assisting residents
291 of the municipality to improve their standard of living, and (I) a
292 general statement of the project's role in maintaining or enhancing the
293 competitiveness of the municipality; (13) a finding that (A) the land
294 and buildings within the boundaries of the project area will be used
295 principally for manufacturing or other economic base business
296 purposes or business support services; (B) the plan is in accordance
297 with the plan of conservation and development for the municipality, if
298 any, adopted by its planning commission under section 8-23, and the
299 plan of development of the regional council of governments adopted
300 under section 8-35a, if any, for the region within which the
301 municipality is located; (C) the plan was prepared giving due
302 consideration to the state plan of conservation and development
303 adopted under chapter 297 and other state-wide planning program

304 objectives of the state or state agencies as coordinated by the Secretary
305 of the Office of Policy and Management; and (D) the project will
306 contribute to the economic welfare of the municipality and the state
307 and that to carry out and administer the project, public action under
308 sections 32-220 to 32-234, inclusive, is required; and (14) a preliminary
309 statement describing the proposed process for acquiring each parcel of
310 real property, including findings that (A) public benefits resulting
311 from the plan will outweigh any private benefits; (B) existing use of the
312 real property cannot be feasibly integrated into the overall plan for the
313 project; (C) acquisition by eminent domain is reasonably necessary to
314 successfully achieve the objectives of such plan; and (D) the plan is not
315 for the purpose of producing income from such parcel to a private
316 entity or for the primary purpose of increasing local tax revenues. The
317 provisions of this subsection with respect to submission of a
318 development plan to and approval by the commissioner and with
319 respect to a finding that the plan was prepared giving due
320 consideration to the state plan of conservation and development and
321 state-wide planning program objectives of the state or its agencies shall
322 not apply to a project for which no financial assistance has been given
323 and no application for financial assistance is to be made under section
324 32-223. Any plan that has been prepared under chapters 130, 132 or
325 588a may be submitted by the implementing agency to the legislative
326 body of the municipality and to the commissioner in lieu of a plan
327 initiated and prepared in accordance with this section, provided all
328 other requirements of sections 32-220 to 32-234, inclusive, for obtaining
329 the approval of the commissioner of the development plan are
330 satisfied. Any action taken in connection with the preparation and
331 adoption of such plan shall be deemed effective to the extent such
332 action satisfies the requirements of said sections.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2019, and applicable to property acquired on or after October 1, 2019</i>	8-127a(a)(1)
Sec. 2	<i>October 1, 2019, and applicable to property acquired on or after October 1, 2019</i>	8-125(3)
Sec. 3	<i>October 1, 2019</i>	8-127(b)
Sec. 4	<i>October 1, 2019, and applicable to property acquired on or after October 1, 2019</i>	8-193(b)(1)
Sec. 5	<i>October 1, 2019, and applicable to property acquired on or after October 1, 2019</i>	8-187
Sec. 6	<i>October 1, 2019, and applicable to property acquired on or after October 1, 2019</i>	8-189(a)
Sec. 7	<i>October 1, 2019, and applicable to property acquired on or after October 1, 2019</i>	32-224(i)(1)
Sec. 8	<i>October 1, 2019, and applicable to property acquired on or after October 1, 2019</i>	32-222(a)
Sec. 9	<i>October 1, 2019, and applicable to property acquired on or after October 1, 2019</i>	32-224(b)

Statement of Purpose:

To prohibit state and municipal governments from exercising the use of eminent domain for certain commercial purposes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: REP. ZAWISTOWSKI, 61st Dist.; REP. FISHBEIN, 90th Dist.

REP. FRANCE, 42nd Dist.; SEN. SAMPSON, 16th Dist.
REP. LAVIELLE, 143rd Dist.; REP. DELNICKI, 14th Dist.

H.B. 5123