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**Senators Grendell, Zurz, Harris, Jacobson, Cates, Mallory, Brady, Amstutz,
Armbruster, Carey, Dann, Gardner, Goodman, Miller, Roberts, Schuler,
Schuring, Spada, Wachtmann, Wilson, Padgett, Austria, Clancy, Mumper,
Hottinger, Niehaus, Jordan, Fedor, Coughlin**

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A B I L L

To establish, until December 31, 2006, a moratorium 1
on the use of eminent domain by any entity of the 2
state government or any political subdivision of 3
the state to take, without the owner's consent, 4
private property that is in an unblighted area 5
when the primary purpose for the taking is 6
economic development that will ultimately result 7
in ownership of the property being vested in 8
another private person, to create the Legislative 9
Task Force to Study Eminent Domain and Its Use and 10
Application in the State, and to declare an 11
emergency. 12

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. As used in Sections 2 to 5 of this act: 13

(A) "Blighted area" has the same meaning as in section 303.26 14
of the Revised Code, but also includes an area in a municipal 15
corporation. 16

(B) "Public body" means any entity of the state government, 17

and any county, municipal corporation, township, commission, 18
district, authority, or other political subdivision of the state, 19
that has the power to take private property by eminent domain. 20

Section 2. (A) Notwithstanding any provision of the Revised 21
Code to the contrary, until December 31, 2006, no public body 22
shall use eminent domain to take, without the consent of the 23
owner, private property that is not within a blighted area, as 24
determined by the public body, when the primary purpose for the 25
taking is economic development that will ultimately result in 26
ownership of that property being vested in another private person. 27

(B)(1) Until December 31, 2006, if any public body uses 28
eminent domain to take, without the consent of the owner, private 29
property that is not within a blighted area, as determined by the 30
public body, when the primary purpose for the taking is economic 31
development that will ultimately result in ownership of that 32
property being vested in another private person, each of the 33
following shall apply: 34

(a) The Ohio Public Works Commission shall not award or 35
distribute to the public body any funding under a capital 36
improvement program created under Chapter 164. of the Revised 37
Code. 38

(b) The Department of Development shall not award or 39
distribute to the public body any funding under a shovel ready 40
sites program created under section 122.083 of the Revised Code. 41

(c) The public body shall not receive any funding designated 42
for capital purposes in any act of the General Assembly. 43

(2) Until December 31, 2006, any public body seeking to 44
obtain funds described in division (B)(1) of this section, shall 45
certify in writing to the grantor of the funds that the public 46
body has not used its eminent domain authority on or after the 47

effective date of this act to take private property in violation 48
of the moratorium established by this act. 49

(C) Divisions (A) and (B) of this section do not apply to the 50
use of eminent domain for the taking of private property to be 51
used as follows: 52

(1) In the construction, maintenance, or repair of roads, 53
including, but not limited to, such use pursuant to authority 54
granted under Title LV of the Revised Code; 55

(2) For a public utility purpose; 56

(3) By a common carrier. 57

Section 3. (A) There is hereby created the Legislative Task 58
Force to Study Eminent Domain and Its Use and Application in the 59
State. The Task Force shall consist of the following twenty-five 60
members: 61

(1) Three members of the House of Representatives, with two 62
members appointed by the Speaker of the House of Representatives 63
and one member appointed by the Minority Leader of the House of 64
Representatives. The Speaker of the House of Representatives shall 65
designate one of the members the Speaker appoints to serve as 66
co-chairperson of the Task Force. 67

(2) Three members of the Senate, with two members appointed 68
by the President of the Senate and one member appointed by the 69
Minority Leader of the Senate. The President of the Senate shall 70
designate one of the members the President appoints to serve as 71
co-chairperson of the Task Force. 72

(3) One member representing the home building industry in the 73
state, appointed jointly by the Speaker of the House of 74
Representatives and the President of the Senate; 75

(4) One member who shall be a statewide advocate for land use 76

planning in the state, appointed jointly by the Speaker of the	77
House of Representatives and the President of the Senate;	78
(5) One member representing the agricultural industry in the	79
state, appointed jointly by the Speaker of the House of	80
Representatives and the President of the Senate;	81
(6) One member representing the commercial real estate	82
industry in the state, appointed jointly by the Speaker of the	83
House of Representatives and the President of the Senate;	84
(7) One member representing licensed realtors in the state,	85
appointed jointly by the Speaker of the House of Representatives	86
and the President of the Senate;	87
(8) One member representing the Ohio Prosecuting Attorneys	88
Association or the Ohio Association of Probate Judges, appointed	89
jointly by the Speaker of the House of Representatives and the	90
President of the Senate;	91
(9) One member who shall be an attorney who is knowledgeable	92
on the issues confronting the Task Force and who represents	93
persons who own property and reside within Ohio, appointed jointly	94
by the Speaker of the House of Representatives and the President	95
of the Senate;	96
(10) One member knowledgeable on the issues confronting the	97
Task Force who represents persons who own property and reside	98
within Ohio, appointed jointly by the Speaker of the House of	99
Representatives and the President of the Senate;	100
(11) One member representing the planning industry in the	101
state, one member representing an Ohio labor organization, one	102
member representing a statewide historic preservation organization	103
that works within commercial districts, one member representing	104
municipal corporations, one member representing counties, and one	105
member representing townships, each appointed by the Governor;	106

(12) The Director of Development or the Director's designee;	107
(13) The Director of Transportation or the Director's designee;	108 109
(14) Two members who shall be attorneys with expertise in eminent domain issues, each appointed by the Attorney General;	110 111
(15) One member representing small businesses, appointed jointly by the Speaker of the House of Representatives and the President of the Senate.	112 113 114
(B) Appointments to the Task Force shall be made not later than thirty days after the effective date of this section. Any vacancy in the membership of the Task Force shall be filled in the same manner as the original appointment. Members of the Task Force shall serve without compensation.	115 116 117 118 119
(C)(1) The Task Force shall study each of the following:	120
(a) The use of eminent domain and its impact on property rights and economic development in the state;	121 122
(b) How the decision of the United States Supreme Court in <i>Kelo v. City of New London</i> , 125 S. Ct. 2655 (2005) affects state law governing the use of eminent domain in the state.	123 124 125
(2) The Task Force shall prepare and submit to the General Assembly by not later than December 31, 2005, a report that shall include the findings of its study and recommendations concerning the use of eminent domain and its impact on property rights and economic development, and by not later than April 1, 2006, a report that shall include findings and recommendations regarding the updating of state law governing eminent domain. On submission of the report due not later than April 1, 2006, the Task Force shall cease to exist.	126 127 128 129 130 131 132 133 134
(D) The Legislative Service Commission shall provide any technical, professional, and clerical employees that are necessary	135 136

for the Task Force to perform its duties. 137

(E) All meetings of the Task Force are declared to be public 138
meetings open to the public at all times. A member of the Task 139
Force shall be present in person at a meeting that is open to the 140
public in order to be considered present or to vote at the meeting 141
and for the purposes of determining whether a quorum is present. 142
The Task Force shall promptly prepare and maintain the minutes of 143
its meetings, which shall be public records under section 149.43 144
of the Revised Code. The Task Force shall give reasonable notice 145
of its meetings so that any person may determine the time and 146
place of all scheduled meetings. The Task Force shall not hold a 147
meeting unless it gives at least twenty-four hours advance 148
notification to the news media organizations that have requested 149
such notification. 150

Section 4. The General Assembly hereby makes the following 151
statements of findings and intent: 152

(A) On June 23, 2005, the United States Supreme Court 153
rendered its decision in *Kelo v. City of New London*, 125 S. Ct. 154
2655 (2005), which allows the taking of private property that is 155
not within a blighted area by eminent domain for the purpose of 156
economic development even when the ultimate result of the taking 157
is ownership of the property being vested in another private 158
person. As a result of this decision, the General Assembly 159
believes the interpretation and use of the state's eminent domain 160
law could be expanded to allow the taking of private property that 161
is not within a blighted area, ultimately resulting in ownership 162
of that property being vested in another private person in 163
violation of Sections 1 and 19 of Article I, Ohio Constitution, 164
which protect the rights of Ohio citizens to maintain property as 165
inviolable, subservient only to the public welfare. Thus, the 166
General Assembly finds it is necessary to enact a moratorium on 167

any takings of this nature by any public body until further 168
legislative remedies may be considered. 169

(B) The General Assembly finds that it is a matter of 170
statewide concern to enact the moratorium. The moratorium is 171
necessary to protect the general welfare and the rights of 172
citizens under Sections 1 and 19 of Article I, Ohio Constitution, 173
and to ensure that these rights are not violated due to the *Kelo* 174
decision. In enacting this provision, the General Assembly wishes 175
to ensure uniformity throughout the state. 176

Section 5. Section 2 of this act applies only to taking 177
actions initiated on or after the effective date of this act. As 178
used in this section, "initiated" means the adoption of a 179
resolution or ordinance of necessity by the public body or filing 180
of a court action, but excludes taking actions for which a 181
resolution or ordinance of necessity or other official action of a 182
condemning authority has been taken and public funds have been 183
expended in connection with that taking action prior to the 184
effective date of this act. 185

Section 6. If any item of law that constitutes the whole or 186
part of an uncodified section of law contained in this act, or if 187
any application of any item of law that constitutes the whole or 188
part of an uncodified section of law contained in this act, is 189
held invalid, the invalidity does not affect other items of law or 190
applications of items of law that can be given effect without the 191
invalid item of law or application. To this end, the items of law 192
of which the uncodified sections contained in this act are 193
composed, and their applications, are independent and severable. 194

Section 7. This act is hereby declared to be an emergency 195
measure necessary for the immediate preservation of the public 196
peace, health, and safety. The reason for the necessity is that 197

the United States Supreme Court decision in *Kelo v. City of New* 198
London, 125 S. Ct. 2655 (2005) could allow the taking of private 199
property that is not within a blighted area, ultimately resulting 200
in ownership of that property being vested in another private 201
person in violation of Sections 1 and 19 of Article I, Ohio 202
Constitution, and, as a result, warrants a moratorium on any 203
takings of this type until further legislative remedies may be 204
considered. Therefore, this act shall go into immediate effect. 205