

**As Reported by the Senate State and Local Government and
Veterans Affairs Committee**

126th General Assembly

Regular Session

2005-2006

Sub. S. B. No. 167

**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**

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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) Until December 31, 2006, if any public body uses eminent 28
domain to take, without the consent of the owner, private property 29
that is not within a blighted area, as determined by the public 30
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

(1) 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

(2) 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

(3) The public body shall not receive any funding provided in 42
any act that makes appropriations for capital purposes. 43

(C) Divisions (A) and (B) of this section do not apply to the 44
use of eminent domain for the taking of private property to be 45
used as follows: 46

(1) In the construction, maintenance, or repair of roads, 47
including, but not limited to, such use pursuant to authority 48
granted under Title LV of the Revised Code; 49

(2) For a public utility purpose; 50

(3) By a common carrier. 51

Section 3. (A) There is hereby created the Legislative Task 52
Force to Study Eminent Domain and Its Use and Application in the 53
State. The Task Force shall consist of the following twenty-four 54
members: 55

(1) Three members of the House of Representatives, with two 56
members appointed by the Speaker of the House of Representatives 57
and one member appointed by the Minority Leader of the House of 58
Representatives. The Speaker of the House of Representatives shall 59
designate one of the members the Speaker appoints to serve as 60
co-chairperson of the Task Force. 61

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

(3) One member representing the home building industry in the 67
state, appointed jointly by the Speaker of the House of 68
Representatives and the President of the Senate; 69

(4) One member who shall be a statewide advocate for land use 70
planning in the state, appointed jointly by the Speaker of the 71
House of Representatives and the President of the Senate; 72

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

(6) One member representing the commercial real estate industry in the state, appointed jointly by the Speaker of the House of Representatives and the President of the Senate;	76 77 78
(7) One member representing licensed realtors in the state, appointed jointly by the Speaker of the House of Representatives and the President of the Senate;	79 80 81
(8) One member representing the Ohio Prosecuting Attorneys Association or the Ohio Association of Probate Judges, appointed jointly by the Speaker of the House of Representatives and the President of the Senate;	82 83 84 85
(9) One member who shall be an attorney who is knowledgeable on the issues confronting the Task Force and who represents persons who own property and reside within Ohio, appointed jointly by the Speaker of the House of Representatives and the President of the Senate;	86 87 88 89 90
(10) One member knowledgeable on the issues confronting the Task Force who represents persons who own property and reside within Ohio, appointed jointly by the Speaker of the House of Representatives and the President of the Senate;	91 92 93 94
(11) One member representing the planning industry in the state, one member representing an Ohio labor organization, one member representing a statewide historic preservation organization that works within commercial districts, one member representing municipal corporations, one member representing counties, and one member representing townships, each appointed by the Governor;	95 96 97 98 99 100
(12) The Director of Development or the Director's designee;	101
(13) The Director of Transportation or the Director's designee;	102 103
(14) Two members who shall be attorneys with expertise in eminent domain issues, each appointed by the Attorney General.	104 105

(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.

(C)(1) The Task Force shall study each of the following:

(a) The use of eminent domain and its impact on property rights and economic development in the state;

(b) How the decision of the United States Supreme Court in *Kelo v. City of New London*, 125 S. Ct. 2655 (2005) affects state law governing the use of eminent domain in the state.

(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.

(D) The Legislative Service Commission shall provide any technical, professional, and clerical employees that are necessary for the Task Force to perform its duties.

(E) All meetings of the Task Force are declared to be public meetings open to the public at all times. A member of the Task Force shall be present in person at a meeting that is open to the public in order to be considered present or to vote at the meeting and for the purposes of determining whether a quorum is present. The Task Force shall promptly prepare and maintain the minutes of its meetings, which shall be public records under section 149.43 of the Revised Code. The Task Force shall give reasonable notice

of its meetings so that any person may determine the time and
place of all scheduled meetings. The Task Force shall not hold a
meeting unless it gives at least twenty-four hours advance
notification to the news media organizations that have requested
such notification.

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

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

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

Section 5. Section 2 of this act applies only to taking 168
actions initiated on or after the effective date of this act. As 169
used in this section, "initiated" means the adoption of a 170
resolution or ordinance of necessity by the public body or filing 171
of a court action, but excludes taking actions for which a 172
resolution or ordinance of necessity or other official action of a 173
condemning authority has been taken and public funds have been 174
expended in connection with that taking action prior to the 175
effective date of this act. 176

Section 6. If any item of law that constitutes the whole or 177
part of an uncodified section of law contained in this act, or if 178
any application of any item of law that constitutes the whole or 179
part of an uncodified section of law contained in this act, is 180
held invalid, the invalidity does not affect other items of law or 181
applications of items of law that can be given effect without the 182
invalid item of law or application. To this end, the items of law 183
of which the uncodified sections contained in this act are 184
composed, and their applications, are independent and severable. 185

Section 7. This act is hereby declared to be an emergency 186
measure necessary for the immediate preservation of the public 187
peace, health, and safety. The reason for the necessity is that 188
the United States Supreme Court decision in *Kelo v. City of New* 189
London, 125 S. Ct. 2655 (2005) could allow the taking of private 190
property that is not within a blighted area, ultimately resulting 191
in ownership of that property being vested in another private 192
person in violation of Sections 1 and 19 of Article I, Ohio 193
Constitution, and, as a result, warrants a moratorium on any 194
takings of this type until further legislative remedies may be 195
considered. Therefore, this act shall go into immediate effect. 196