

As Concurred by the Senate

**127th General Assembly
Regular Session
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Am. Sub. S. B. No. 7

Senator Grendell

**Cosponsors: Senators Harris, Faber, Schaffer, Amstutz, Coughlin, Gardner,
Padgett, Schuring, Clancy, Mumper, Carey, Niehaus, Austria, Buehrer,
Goodman, Jacobson, Schuler, Spada, Stivers, Miller, R., Wilson, Cates
Representatives Blessing, Wagoner, Coley, Bacon, Seitz, Batchelder, Adams,
Aslanides, Bubp, Carmichael, Collier, Combs, Core, Daniels, Dolan,
Domenick, Evans, Flowers, Gibbs, Goodwin, Hagan, J., Hite, Hottinger,
Hughes, Jones, Oelslager, Peterson, Reinhard, Schindel, Setzer, Stebelton,
Uecker, Wachtmann, Wagner, White, Zehringer**

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A B I L L

To amend sections 163.01, 163.02, 163.04, 163.05, 1
163.06, 163.09, 163.12, 163.14, 163.15, 163.19, 2
163.21, 163.53, 163.62, 303.26, 719.012, 1728.01, 3
2505.02, and 3735.40 and to enact sections 1.08, 4
163.021, 163.041, 163.051, 163.211, and 163.63 of 5
the Revised Code to implement the recommendations 6
of the Eminent Domain Task Force and to create 7
other procedures to protect the rights of property 8
owners. 9

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

Section 1. That sections 163.01, 163.02, 163.04, 163.05, 10
163.06, 163.09, 163.12, 163.14, 163.15, 163.19, 163.21, 163.53, 11
163.62, 303.26, 719.012, 1728.01, 2505.02, and 3735.40 be amended 12
and sections 1.08, 163.021, 163.041, 163.051, 163.211, and 163.63 13

of the Revised Code be enacted to read as follows: 14

Sec. 1.08. As used in the Revised Code: 15

(A) "Blighted area" and "slum" mean an area in which at least 16
seventy per cent of the parcels are blighted parcels and those 17
blighted parcels substantially impair or arrest the sound growth 18
of the state or a political subdivision of the state, retard the 19
provision of housing accommodations, constitute an economic or 20
social liability, or are a menace to the public health, safety, 21
morals, or welfare in their present condition and use. 22

(B) "Blighted parcel" means either of the following: 23

(1) A parcel that has one or more of the following 24
conditions: 25

(a) A structure that is dilapidated, unsanitary, unsafe, or 26
vermin infested and that because of its condition has been 27
designated by an agency that is responsible for the enforcement of 28
housing, building, or fire codes as unfit for human habitation or 29
use; 30

(b) The property poses a direct threat to public health or 31
safety in its present condition by reason of environmentally 32
hazardous conditions, solid waste pollution, or contamination; 33

(c) Tax or special assessment delinquencies exceeding the 34
fair value of the land that remain unpaid thirty-five days after 35
notice to pay has been mailed. 36

(2) A parcel that has two or more of the following conditions 37
that, collectively considered, adversely affect surrounding or 38
community property values or entail land use relationships that 39
cannot reasonably be corrected through existing zoning codes or 40
other land use regulations: 41

(a) Dilapidation and deterioration; 42

<u>(b) Age and obsolescence;</u>	43
<u>(c) Inadequate provision for ventilation, light, air, sanitation, or open spaces;</u>	44 45
<u>(d) Unsafe and unsanitary conditions;</u>	46
<u>(e) Hazards that endanger lives or properties by fire or other causes;</u>	47 48
<u>(f) Noncompliance with building, housing, or other codes;</u>	49
<u>(g) Nonworking or disconnected utilities;</u>	50
<u>(h) Is vacant or contains an abandoned structure;</u>	51
<u>(i) Excessive dwelling unit density;</u>	52
<u>(j) Is located in an area of defective or inadequate street layout;</u>	53 54
<u>(k) Overcrowding of buildings on the land;</u>	55
<u>(l) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;</u>	56 57
<u>(m) Vermin infestation;</u>	58
<u>(n) Extensive damage or destruction caused by a major disaster when the damage has not been remediated within a reasonable time;</u>	59 60 61
<u>(o) Identified hazards to health and safety that are conducive to ill health, transmission of disease, juvenile delinquency, or crime;</u>	62 63 64
<u>(p) Ownership or multiple ownership of a single parcel when the owner, or a majority of the owners of a parcel in the case of multiple ownership, cannot be located.</u>	65 66 67
<u>(C) When determining whether a property is a blighted parcel or whether an area is a blighted area or slum for the purposes of this section, no person shall consider whether there is a</u>	68 69 70

comparatively better use for any premises, property, structure, 71
area, or portion of an area, or whether the property could 72
generate more tax revenues if put to another use. 73

(D)(1) Notwithstanding any other provision of this section, 74
absent any environmental or public health hazard that cannot be 75
corrected under its current use or ownership, a property is not a 76
blighted parcel because of any condition listed in division (B) of 77
this section if the condition is consistent with conditions that 78
are normally incident to generally accepted agricultural practices 79
and the land is used for agricultural purposes as defined in 80
section 303.01 or 519.01 of the Revised Code, or the county 81
auditor of the county in which the land is located has determined 82
under section 5713.31 of the Revised Code that the land is "land 83
devoted exclusively to agricultural use" as defined in section 84
5713.30 of the Revised Code. 85

(2) A property that under division (D)(1) of this section is 86
not a blighted parcel shall not be included in a blighted area or 87
slum. 88

Sec. 163.01. As used in sections 163.01 to 163.22 of the 89
Revised Code: 90

(A) "Public agency" means any governmental corporation, unit, 91
organization, instrumentality, or officer authorized by law to 92
appropriate property in the courts of this state. "~~Private~~" 93

(B) "Private agency" means any ~~other~~ corporation, firm, 94
partnership, voluntary association, joint-stock association, or 95
company that is not a public agency and that is authorized by law 96
to appropriate property in the courts of this state. "Agency" 97
includes 98

(C) "Agency" means any public agency or private agency. 99

~~(B)~~(D) "Court" includes means the court of common pleas and 100

or the probate court of any county in which the property sought to be appropriated is located in whole or in part.

~~(C)~~(E) "Owner" ~~includes~~ means any individual, partnership, association, or corporation having any estate, title, or interest in any real property sought to be appropriated.

~~(D)~~(F) "Real property," "land," or "property" includes any estate, title, or interest in any real property ~~which~~ that is authorized to be appropriated by the agency in question, unless the context otherwise requires.

(G) "Public utility" has the same meaning as in section 4905.02 of the Revised Code and also includes a public utility owned or operated by one or more municipal corporations, an electric cooperative, and an agency holding a certificate of public convenience and necessity granted by the federal energy regulatory commission.

(H)(1) "Public use" does not include any taking that is for conveyance to a private commercial enterprise, economic development, or solely for the purpose of increasing public revenue, unless the property is conveyed or leased to one of the following:

(a) A public utility, municipal power agency, or common carrier;

(b) A private entity that occupies a port authority transportation facility or an incidental area within a publicly owned and occupied project;

(c) A private entity when the agency that takes the property establishes by a preponderance of the evidence that the property is a blighted parcel or is included in a blighted area.

(2) All of the following are presumed to be public uses: utility facilities, roads, sewers, water lines, public schools,

public institutions of higher education, private institutions of 131
higher education that are authorized to appropriate property under 132
section 3333.08 of the Revised Code, public parks, government 133
buildings, port authority transportation facilities, projects by 134
an agency that is a public utility, and similar facilities and 135
uses of land. 136

(I) "Electric cooperative" has the same meaning as in section 137
4928.01 of the Revised Code. 138

(J) "Good faith offer" means the written offer that an agency 139
that is appropriating property must make to the owner of the 140
property pursuant to division (B) of section 163.04 of the Revised 141
Code before commencing an appropriation proceeding. 142

(K) "Goodwill" means the calculable benefits that accrue to a 143
business as a result of its location, reputation for 144
dependability, skill or quality, and any other circumstances that 145
result in probable retention of old, or acquisition of new, 146
patronage. 147

(L) "Municipal power agency" has the same meaning as in 148
section 3734.058 of the Revised Code. 149

(M) "Port authority transportation facility" means any 150
facility developed, controlled, or operated by a port authority 151
for the purpose of providing passenger, cargo, or freight 152
transportation services, such as airports, maritime ports, rail 153
facilities, transit facilities, and support facilities directly 154
related to any airport, maritime port, rail facility, or transit 155
facility. 156

Sec. 163.02. ~~(A) Except as provided in divisions (B), (C),~~ 157
~~(D), and (F) of this section, all~~ All appropriations of real 158
property shall be made pursuant to sections 163.01 to 163.22 of 159
the Revised Code, except as otherwise provided in this section, as 160

otherwise provided to abate a health nuisance or because of a 161
public exigency as provided in division (B) of section 307.08, 162
6101.181, 6115.221, 6117.39, or 6119.11 or division (D) of section 163
504.19 of the Revised Code, or as otherwise provided to abate a 164
health nuisance or because of a public exigency as provided in a 165
municipal charter or ordinance. 166

~~(B) Subject to division (E) of this section, the~~ The director 167
of transportation may appropriate real property pursuant to 168
sections 163.01 to 163.22 of the Revised Code or as otherwise 169
provided by law. 170

~~(C) Subject to division (E) of this section, a conservancy~~ 171
~~district may appropriate real property by procedures prescribed in~~ 172
~~Chapter 6101. of the Revised Code.~~ 173

~~(D) Subject to division (E) of this section, a sanitary~~ 174
~~district may appropriate real property by procedures prescribed in~~ 175
~~Chapter 6115. of the Revised Code.~~ 176

~~(E) When the director of transportation, a conservancy~~ 177
~~district, or a sanitary district proceeds~~ Notwithstanding any 178
authority to appropriate real property other than under sections 179
163.01 to 163.22 of the Revised Code, ~~the proceedings are~~ any 180
proceeding to appropriate real property is subject to division (B) 181
of section 163.21 of the Revised Code. 182

~~(F) A county, township that has adopted a limited home rule~~ 183
~~government, conservancy district, sanitary district, county sewer~~ 184
~~district, or a regional water and sewer district also may~~ 185
~~appropriate real property in the manner prescribed in division (B)~~ 186
~~of section 307.08, 6101.181, 6115.221, 6117.39, or 6119.11 or~~ 187
~~division (D) of section 504.19 of the Revised Code, as applicable.~~ 188

~~(G)(D)~~ Any instrument by which ~~the state or an agency of the~~ 189
~~state~~ acquires real property pursuant to this section shall 190
identify include all of the following: 191

(1) The name of the agency of the state that has the use and benefit of the real property as specified in the manner required by section 5301.012 of the Revised Code; 192
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(2) A statement of the purpose of the appropriation as provided with the appropriation petition; 195
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(3) A statement that the prior owner possesses a right of repurchase pursuant to section 163.211 of the Revised Code if the agency decides not to use the property for the purpose stated in the appropriation petition and the owner provides timely notice of a desire to repurchase. Nothing in this section affects the authority of the director of transportation to convey unneeded property pursuant to division (F) of section 5501.34 of the Revised Code. 197
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(E) Nothing in this chapter precludes any person from voluntarily conveying a property to an agency that is considering appropriating the property or that offers to purchase the property under threat of appropriation. Any such voluntary conveyance of a property to an agency is deemed for all purposes to be a sale under the threat of appropriation for a public use. This division applies to a voluntary conveyance to an agency regardless of whether the property is a blighted property or is located in a blighted area, or the property subsequently could be found for any reason not to qualify for appropriation by the agency. 205
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Sec. 163.021. (A) No agency shall appropriate real property except as necessary and for a public use. In any appropriation, the taking agency shall show by a preponderance of the evidence that the taking is necessary and for a public use. 215
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(B) Before an agency appropriates property based on a finding that the area is a blighted area or a slum, the agency shall do both of the following: 219
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(1) Adopt a comprehensive development plan that describes the public need for the property. The plan shall include at least one study documenting the public need. All of the costs of developing the plan shall be publicly financed. 222
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(2) If the agency is governed by a legislative body, obtain a resolution from that legislative body affirming the public need for the property. 226
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(C) No park board, park district, board of directors of a conservancy district, incorporated association with a purpose of establishing or preserving public parks and memorial sites, or similar park authority shall exercise any power of eminent domain to appropriate real property outside the county or counties in which the park authority is located unless the appropriation has the written approval of the legislative authority of each county in which the property is located, other than the county or counties in which the park authority is located. 229
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(D) No agency shall appropriate property based on a finding that the parcel is a blighted parcel or that the area is a blighted area or slum by making that finding in, or in conjunction with, an emergency ordinance or resolution. 238
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(E) If an appropriation is by a public agency that is not elected and an owner has provided the public agency with a written objection to the appropriation, the elected officials of the public agency or elected individual that appointed the unelected agency may veto that appropriation. If the unelected public agency was appointed by more than one public agency or elected individual, a majority vote of the elected officials of the appointing public agencies or elected individuals is required to veto the appropriation. If the public agency that is not elected is a state agency or instrumentality such as a university, the governor has the veto authority. The governor may delegate that authority but may not delegate that authority to the unelected 242
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agency that seeks the appropriation. 254

Sec. 163.04. Appropriations shall be made (A) At least thirty 255
days before filing a petition pursuant to section 163.05 of the 256
Revised Code, an agency shall provide notice to the owner of the 257
agency's intent to acquire the property. The notice shall be 258
substantially in the form set forth in section 163.041 of the 259
Revised Code. The notice shall be delivered personally on, or by 260
certified mail to, the owner of the property or the owner's 261
designated representative. 262

(B) Together with the notice that division (A) of this 263
section requires, or after providing that notice but not less than 264
thirty days before filing a petition pursuant to section 163.05 of 265
the Revised Code, an agency shall provide an owner with a written 266
good faith offer to purchase the property. The agency may revise 267
that offer if before commencing an appropriation proceeding the 268
agency becomes aware of conditions indigenous to the property that 269
could not reasonably have been discovered at the time of the 270
initial good faith offer or if the agency and the owner exchange 271
appraisals prior to the filing of the petition. 272

(C) An agency may appropriate real property only after the 273
agency obtains an appraisal of the property and provides a copy of 274
the appraisal to the owner or, if more than one, each owner or to 275
the guardian or trustee of each owner. The agency need not provide 276
an owner with a copy of the appraisal when that owner is incapable 277
of contracting in person or by agent to convey the property and 278
has no guardian or trustee or is unknown, or the residence of the 279
owner cannot with reasonable diligence be ascertained. When the 280
appraisal indicates that the property is worth less than ten 281
thousand dollars, the agency need only provide an owner, guardian, 282
or trustee with a summary of the appraisal. The agency shall 283
provide the copy or summary of the appraisal to an owner, 284

guardian, or trustee at or before the time the agency makes its 285
first offer to purchase the property. A public utility or the head 286
of a public agency may prescribe a procedure to waive the 287
appraisal in cases involving the acquisition by sale or donation 288
of property with a fair market value of ten thousand dollars or 289
less. 290

(D) An agency may appropriate real property only after the 291
agency is unable to agree on a conveyance or the terms of a 292
conveyance, for any reason, with the any owner, or if more than 293
one, any owner, or his the guardian or trustee, or when of any 294
owner unless each owner is incapable of contracting in person or 295
by agent to convey the property and has no guardian or trustee, or 296
each owner is unknown, or is not a resident of this state, or his 297
the residence of each owner is unknown to the agency and cannot 298
the residence of no owner can with reasonable diligence be 299
ascertained. 300

(E) An agency may appropriate real property for projects that 301
will disrupt the flow of traffic or impede access to property only 302
after the agency makes reasonable efforts to plan the project in a 303
way that will limit those effects. This division does not apply to 304
an agency if it initiated the project for which it appropriates 305
the property under Title LV of the Revised Code. 306

Sec. 163.041. Before initiating an appropriation action, an 307
agency shall provide notice to each property owner as required by 308
division (A) of section 163.04 of the Revised Code. The notice 309
shall be substantially in the following form: 310

NOTICE OF INTENT TO ACQUIRE 311

TO: (owner(s)) DATE: 312

..... (agency) needs your property for a 313

(description of the project) and will need to acquire the 314

following from you: 315

..... (general description of the property or
easement to be acquired). 316
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Ohio law authorizes (agency) to obtain your property or 318
an easement across your property for certain public purposes. The 319
legal description of your property that (agency) needs 320
is: (is attached:) 321

We will be presenting you with a written offer based on our 322
determination of the fair market value of your property. You will 323
have days (minimum of ten) from the time you receive that 324
offer to accept or reject the offer. We will be willing to discuss 325
the offer with you during that time. **You are not required to** 326
accept that offer. If you reject the offer or we are unable to 327
come to an agreement, we may have to exercise our eminent domain 328
authority to appropriate your property, which requires a court 329
procedure. In a court proceeding, you may disagree with any of the 330
following: whether the project is necessary (except in quick 331
takes), whether the project is a public use (except in quick 332
takes), whether your property is blighted (if applicable), and 333
whether our offer reflects the fair market value of the property. 334

HERE IS A BRIEF SUMMARY OF YOUR OPTIONS AND LEGALLY PROTECTED 335
RIGHTS: 336

1. By law, (agency) is required to make a good 337
faith effort to purchase (your property) (an easement across your 338
property). 339

2. **You do not have to accept this offer** and 340
(agency) is not required to agree to your demands. 341

3. If you do not accept this offer, and we cannot come to an 342
agreement on the acquisition of (your property)(an easement), 343
..... (agency) has the right to file suit to acquire the 344
(property)(easement) by eminent domain in the county in which the 345
property is located. 346

4. You have the right to seek the advice of an attorney, real estate appraiser, or any other person of your choice in this matter. 347
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5. (this paragraph does not apply to private agencies or to municipally owned public utilities) You have a right to appeal this decision and may object to this project's public purpose, necessity, designation of blight (if applicable), or valuation by writing, within ten business days of receiving this notice, to: 350
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..... (name(s) and address(es) of the taking agency, as well as to the elected official(s) who appointed the taking agency if the taking agency is not elected). 355
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(The elected official)(A majority of the elected officials) that appointed (unelected agency) has/have the discretion to veto this project, and if they do so, it will not proceed. (This applies only if the taking agency is a public agency composed of officials who were not elected.) 358
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6. We are required by law to provide you with a written offer and the appraisal or summary appraisal on which we base that offer (public agencies and public utilities may delete this phrase for properties valued at less than \$10,000 if they have adopted alternate procedures). 363
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After a trial, a jury will decide the amount you are to be awarded for your property that is taken, for the damage that is caused by the taking, if applicable, and for other damages permitted by law, which could either exceed or be less than our offer. During the court proceeding, you have the right to testify as to the value of your property, and you and the agency are entitled to present evidence of the fair market value of the property (easement). 368
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You may employ, at your own expense, appraisers and attorneys to represent you at this time or at any time during the 376
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proceedings described in this notice. 378

If we go to court to determine the amount we pay for your 379
property and the jury awards you an amount that is significantly 380
in excess of a good faith offer, revised offer, or offer made 381
after an exchange of appraisals, as provided by law, you may be 382
entitled to recover attorney's fees, costs, and expenses, subject 383
to certain statutory limits. 384

If we go to court to determine whether the project is 385
necessary or for a public use, and the court decides that it is 386
not necessary or not for a public use, the judge shall award you 387
your full amount of attorney's fees, costs, and expenses. 388

You also have the right to request that the issue of the 389
value of your property be submitted to nonbinding mediation. You 390
must submit your written request for mediation within ten business 391
days after you file an answer to the agency's petition for an 392
appropriation proceeding. If a settlement is not reached at 393
mediation, the matter will proceed to a jury valuation trial. 394

If you have any questions concerning this matter, you may 395
contact us at: 396

..... (full name, mailing, and street address, and 397
phone of the agency) 398

..... (signature of contact person) 399

..... (printed name and title of contact person) 400

Agent of (if different than agency) 401

Sec. 163.05. An agency ~~which~~ that has met the requirements of 402
~~section~~ sections 163.04 and 163.041 of the Revised Code, may 403
commence proceedings in a proper court by filing a petition for 404
appropriation of each parcel or contiguous parcels in a single 405
common ownership, or interest or right therein. The petition of a 406
private agency shall be verified as in a civil action ~~and all.~~ All 407

petitions shall contain: 408

(A) A description of each parcel of land or interest or right 409
therein sought to be appropriated, such as will permit ready 410
identification of the land involved; 411

(B) ~~In the case of a private agency, a~~ (1) A statement that 412
~~such~~ the appropriation is necessary, for a public use, and, in the 413
case of a public agency, a copy of the resolution of the public 414
agency to appropriate; 415

(2) If the property being appropriated is a blighted parcel 416
that is being appropriated pursuant to a redevelopment plan, a 417
statement that shows the basis for the finding of blight and that 418
supports that the parcel is part of a blighted area pursuant to 419
the definition in section 1.08 of the Revised Code. 420

(C) A statement of the purpose of the appropriation; 421

(D) A statement of the estate or interest sought to be 422
appropriated; 423

(E) The names and addresses of the owners, so far as they can 424
be ascertained; 425

(F) A statement showing requirements of section 163.04 of the 426
Revised Code have been met; 427

(G) A prayer for the appropriation; 428

~~(H)~~ In the event of an appropriation where the agency would 429
require less than the whole of any parcel containing a residence 430
structure and the required portion would remove a garage and 431
sufficient land that a replacement garage could not be lawfully or 432
practically attached, the appropriation shall be for the whole 433
parcel and all structures unless, at the discretion of the owner, 434
the owner waives this requirement, in which case the agency shall 435
appropriate only the portion that the agency requires as well as 436
the entirety of any structure that is in whole or in part on the 437

required portion. 438

In the event of the appropriation of less than the fee of any 439
parcel or of a fee in less than the whole of any parcel of 440
property, the agency shall either make available to the owner or 441
shall file in the office of the county engineer, a description of 442
the nature of the improvement or use which requires the 443
appropriation, including any specifications, elevations, and grade 444
changes already determined at the time of the filing of the 445
petition, in sufficient detail to permit a determination of the 446
nature, extent, and effect of the taking and improvement. A set of 447
highway construction plans shall be acceptable in providing such 448
description for the purposes of the preceding sentence in the 449
appropriation of land for highway purposes. 450

Sec. 163.051. Either an owner of property or an agency may 451
request that the issue of the value of the property be submitted 452
to nonbinding mediation. Any request for mediation shall be made 453
in writing within ten business days after the owner files an 454
answer pursuant to section 163.08 of the Revised Code. The court 455
shall appoint a mediator, and the mediation shall be conducted and 456
concluded within fifty days after the owner filed an answer. Only 457
a judge may extend the time for concluding the mediation, and the 458
judge may do so only for the reason of an inability to obtain an 459
appraisal. The agency shall pay the cost of mediation. 460

Sec. 163.06. (A) A public agency, other than an agency 461
appropriating property for the purposes described in division (B) 462
of this section, ~~which~~ that qualifies pursuant to Section 19 of 463
Article I, Ohio Constitution, may deposit with the court at the 464
time of filing the petition the value of such property 465
appropriated together with the damages, if any, to the residue, as 466
determined by the public agency, and thereupon take possession of 467
and enter upon the property appropriated. The right of possession 468

upon deposit as provided in this division shall not extend to 469
structures. 470

(B) A public agency appropriating property for the purpose of 471
making or repairing roads which shall be open to the public, 472
without charge, or for the purpose of implementing rail service 473
under Chapter 4981. of the Revised Code, may deposit with the 474
court at the time of filing the petition the value of such 475
property appropriated together with the damages, if any, to the 476
residue, as determined by the public agency, and stated in an 477
attached declaration of intention to obtain possession and 478
thereupon take possession of and enter upon the property 479
appropriated, including structures situated upon the land 480
appropriated for such purpose or situated partly upon the land 481
appropriated therefor and partly upon adjoining land, so that such 482
structures cannot be divided upon the line between such lands 483
without manifest injury thereto. The jury, in assessing 484
compensation to any owner of land appropriated under this division 485
shall assess the value thereof in accordance with section 163.14 486
of the Revised Code. The owner or occupant of such structures 487
shall vacate the same within sixty days after service of summons 488
as required under section 163.07 of the Revised Code, ~~at no cost~~ 489
~~to the appropriating agency,~~ after which time the agency may 490
remove said structures. In the event such structures are to be 491
removed before the jury has fixed the value of the same, the 492
court, upon motion of the agency, shall: 493

(1) Order appraisals to be made by three persons, one to be 494
named by the owner, one by the county auditor, and one by the 495
agency. Such appraisals may be used as evidence by the owner or 496
the agency in the trial of said case but shall not be binding on 497
said owner, agency, or the jury, and the expense of said 498
appraisals shall be approved by the court and charged as costs in 499
said case. 500

(2) Cause pictures to be taken of all sides of said structures; 501
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(3) Compile a complete description of said structures, which shall be preserved as evidence in said case to which the owner or occupants shall have access. 503
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(C) Any time after the deposit is made by the public agency under division (A) or (B) of this section, the owner may apply to the court to withdraw the deposit, and such withdrawal shall in no way interfere with the action except that the sum so withdrawn shall be deducted from the sum of the final verdict or award. Upon such application being made the court shall direct that the sum be paid to such owner subject to the rights of other parties in interest provided such parties make timely application as provided in section 163.18 of the Revised Code. Interest shall not accrue on any sums withdrawable as provided in this division. 506
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Sec. 163.09. (A) If no answer is filed pursuant to section 163.08 of the Revised Code, and no approval ordered by the court to a settlement of the rights of all necessary parties, the court, on motion of a public agency, shall declare the value of the property taken and the damages, if any, to the residue to be as set forth in any document properly filed with the clerk of the court of common pleas by the public agency. In all other cases, the court shall fix a time, within twenty days from the last date that the answer could have been filed, for the assessment of compensation by a jury. 516
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(B)(1) When an answer is filed pursuant to section 163.08 of the Revised Code and any of the matters relating to the right to make the appropriation, the inability of the parties to agree, or the necessity for the appropriation are specifically denied in the manner provided in that section, the court shall set a day, not less than five or more than fifteen days from the date the answer 526
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was filed, to hear those matters. Upon those matters, the burden 532
of proof is upon the owner. A agency by a preponderance of the 533
evidence except as follows: 534

(a) A resolution or ordinance of the governing or controlling 535
body, council, or board of the agency declaring the necessity for 536
the appropriation shall be prima facie evidence creates a 537
rebuttable presumption of that the necessity in the absence of 538
proof showing an abuse of discretion by the agency in determining 539
that necessity for the appropriation if the agency is not 540
appropriating the property because it is a blighted parcel or part 541
of a blighted area or slum. 542

(b) The presentation by a public utility or common carrier of 543
evidence of the necessity for the appropriation creates a 544
rebuttable presumption of the necessity for the appropriation. 545

(c) Approval by a state or federal regulatory authority of an 546
appropriation by a public utility or common carrier creates an 547
irrebuttable presumption of the necessity for the appropriation. 548

(2) Subject to the irrebuttable presumption in division 549
(B)(1)(c) of this section, only the judge may determine the 550
necessity of the appropriation. If, as to any or all of the 551
property or other interests sought to be appropriated, the court 552
determines the matters in favor of the agency, the court shall set 553
a time for the assessment of compensation by the jury within 554
twenty not less than sixty days from the date of the 555
journalization of that determination, subject to the right of the 556
parties to request mediation under section 163.051 of the Revised 557
Code and the right of the owner to an immediate appeal under 558
division (B)(3) of this section. An Except as provided in division 559
(B)(3) of this section, an order of the court in favor of the 560
agency on any of the matters or on qualification under section 561
163.06 of the Revised Code shall not be a final order for purposes 562
of appeal. An order of the court against the agency on any of the 563

matters or on the question of qualification under section 163.06 564
of the Revised Code shall be a final order for purposes of appeal. 565
If a public agency has taken possession prior to such an order and 566
such an order, after any appeal, is against the agency on any of 567
the matters, the agency shall restore the property to the owner in 568
its original condition or respond in damages, which may include 569
the items set forth in division (A)(2) of section 163.21 of the 570
Revised Code, recoverable by civil action, to which the state 571
consents. 572

(3) An owner has a right to an immediate appeal if the order 573
of the court is in favor of the agency in any of the matters the 574
owner denied in the answer, unless the agency is appropriating 575
property in time of war or other public exigency imperatively 576
requiring its immediate seizure, for the purpose of making or 577
repairing roads which shall be open to the public without charge, 578
for the purpose of implementing rail service under Chapter 4981. 579
of the Revised Code, or under section 307.08, 504.19, 6101.181, 580
6115.221, 6117.39, or 6119.11 of the Revised Code or by a public 581
utility owned and operated by a municipal corporation as the 582
result of a public exigency. 583

(C) When an answer is filed pursuant to section 163.08 of the 584
Revised Code, and none of the matters set forth in division (B) of 585
this section is specifically denied, the court shall fix a time 586
within twenty days from the date the answer was filed for the 587
assessment of compensation by a jury. 588

(D) If answers are filed pursuant to divisions (B) and (C) of 589
this section, or an answer is filed on behalf of fewer than all 590
the named owners, the court shall set the hearing or hearings at 591
such times as are reasonable under all the circumstances, but in 592
no event later than twenty days after the issues are joined as to 593
all necessary parties or twenty days after rule therefor, 594
whichever is earlier. 595

(E) The court, with the consent of the parties, may order two or more cases to be consolidated and tried together, but the rights of each owner to compensation, damages, or both shall be separately determined by the jury in its verdict.

(F) If an answer is filed under section 163.08 of the Revised Code with respect to the value of property ~~appropriated under section 307.08, 504.19, 6101.181, 6115.221, 6117.39, or 6119.11 of the Revised Code as the result of a public exigency, the trier of fact shall determine that value based on the evidence presented, with neither party having~~ the burden of proof with respect to that value ~~is on the party or parties to the appropriation other than the property owners.~~

(G) If the court determines the matter in the favor of the owner as to the necessity of the appropriation or whether the use for which the agency seeks to appropriate the property is a public use, in a final, unappealable order, the court shall award the owner reasonable attorney's fees, expenses, and costs.

Sec. 163.12. (A) A view of the premises to be appropriated or of premises appropriated shall be ordered by the court when ~~demanded~~ requested by a party to the proceedings.

(B) The property owners shall open and close the case except that, if the premises are appropriated under section 163.06, 307.08, 504.19, 6101.181, 6115.221, 6117.39, or 6119.11 of the Revised Code as the result of a public exigency, the party or parties other than the owners shall open and close the case.

(C) The court may amend any defect or informality in proceedings under sections 163.01 to 163.22 of the Revised Code. The court may cause new parties to be added and direct further notice to be given to a party in interest as the court considers proper.

(D) No part of the pleadings, ~~other than the petition,~~ shall 626
be read or exhibited to the jury. 627

Sec. 163.14. (A) In appropriation proceedings the jury shall 628
be sworn to impartially assess the compensation and damages, if 629
any, without deductions for general benefits as to the property of 630
the owner. 631

(B) The jury, in its verdict, shall assess the compensation 632
for the property appropriated and damages, if any, to the residue, 633
to be paid to the owners. When a building or other structure is on 634
the property appropriated or when a building or other structure is 635
situated partly upon the land appropriated and partly upon 636
adjoining land so that the structure cannot be divided upon the 637
line between such lands without manifest injury thereto, the jury, 638
in assessing compensation to any owner of the land, shall assess 639
the value thereof, as part of the compensation. The title to said 640
structure shall vest in the agency which shall have the right to 641
enter upon the adjoining land upon which any part of the structure 642
is located for the purpose of removing said structure therefrom, 643
after deposit in accordance with the verdict. Such removal shall 644
be made within ninety days after taking title to the property 645
appropriated; provided, that the court may extend removal time 646
upon such conditions as the court requires. 647

(C) The jury, in its verdict, shall assess compensation to 648
the owner of a business conducted on the property taken for loss 649
of goodwill if the owner proves both of the following: 650

(1) The loss is caused by the taking of the property; 651

(2) The loss cannot reasonably be prevented by relocation of 652
the business or by taking steps and adopting procedures that a 653
reasonably prudent person would take and adopt in preserving the 654
goodwill. 655

Compensation for loss of goodwill shall not be included in payments made under section 163.53 of the Revised Code, shall not be duplicated in any compensation otherwise awarded to the owner, shall not exceed ten thousand dollars, and shall not be awarded in appropriations of less than the entirety of the business property. 656
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(D) The verdict shall be signed by at least three-fourths of the members of the jury. 661
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(E) If a jury is discharged without rendering a verdict, another shall be impaneled at the earliest convenient time and shall make the inquiry and assessment. 663
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Sec. 163.15. (A) As soon as the agency pays to the party entitled thereto or deposits with the court the amount of the award and the costs assessed against the agency, it may take possession; provided, that this shall not be construed to limit the right of a public agency to enter and take possession, as provided in section 163.06 of the Revised Code. When the agency is entitled to possession the court shall enter an order to such effect upon the record and, if necessary, process shall be issued to place the agency in possession. Whenever a final journal entry in an appropriation proceeding, granting to this state a fee title or any lesser estate or interest in real property is filed and journalized by the clerk of courts, the clerk of courts shall forthwith transmit to the county auditor a certified copy of said final journal entry who shall transfer the property on ~~his~~ the auditor's books and transmit said entry with proper endorsement to the county recorder for recording. The costs of filing such final journal entry with the county auditor and the county recorder shall be taxed as costs in the appropriation proceedings the same as other costs are taxed under section 163.16 of the Revised Code. 666
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(B)(1) Whenever the appropriation of real property requires the owner, a commercial tenant, or a residential tenant identified 685
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by the owner in a notice filed with the court to move or relocate, 687
the agency shall make a payment to that person, upon proper 688
application as approved by the agency, for all of the following: 689

(a) Actual reasonable expenses in moving the person and the 690
person's family, business, farm operation, or other personal 691
property; 692

(b) Actual direct losses of tangible personal property as a 693
result of moving or discontinuing a business or farm operation, 694
but not to exceed an amount equal to the reasonable expenses that 695
would have been required to relocate such property, as determined 696
by the agency; 697

(c) Actual reasonable expenses in searching for a replacement 698
business or farm, but not to exceed two thousand five hundred 699
dollars; 700

(d) Actual and reasonable expenses necessary to reestablish a 701
farm, nonprofit organization, or small business at its new site, 702
but not to exceed ten thousand dollars. 703

(2) If the agency does not approve a payment for which the 704
owner applied under division (B)(1) of this section, the trier of 705
fact, upon presentation of proof, shall determine whether to award 706
a payment for the expenses described in division (B)(1) of this 707
section and the amount of any award. The owner shall have the 708
burden of proof with respect to those expenses. 709

(3)(a) In addition to any payments an owner of a business may 710
receive under division (B)(1) of this section, an owner of a 711
business who is required by an appropriation of real property to 712
relocate the business may recover damages for the owner's actual 713
economic loss resulting from the appropriation, as proven by the 714
owner by a preponderance of the evidence. Compensation for actual 715
economic loss under this division shall not include any attorney's 716
fees and shall not duplicate any amount awarded as compensation 717

under this chapter. 718

(b) The amount of compensation awarded under division 719
(B)(3)(a) of this section shall not exceed twelve months net 720
profit of the business on an annualized basis. Except as otherwise 721
provided in division (B)(3)(c) of this section, if the agency is 722
appropriating property in time of war or other public exigency 723
imperatively requiring its immediate seizure, for the purpose of 724
making or repairing roads that shall be open to the public without 725
charge, for the purpose of implementing rail service under Chapter 726
4981. of the Revised Code, or under section 307.08, 504.19, 727
6101.181, 6115.221, 6117.39, or 6119.11 of the Revised Code as the 728
result of a public exigency, or the agency is a municipal 729
corporation that is appropriating property as a result of a public 730
exigency, the period for which the net profit of the business is 731
calculated shall be twelve months minus the time period from the 732
date the agency gives the notice required by section 163.04 of the 733
Revised Code to the date the agency deposits the value of the 734
property with the court pursuant to section 163.06 of the Revised 735
Code or pays that amount to the owner, but in no event shall the 736
compensation time period be less than fifteen days. If the period 737
on which the loss is calculated is reduced to fifteen days and the 738
relocation is unusually complex, the owner may request the agency 739
to increase that period by up to fifteen additional days. If the 740
agency fails to pay the compensation as provided under division 741
(B)(3)(a) of this section or denies the request, the owner may 742
seek an award of such compensation pursuant to this section. 743

(c) In case of an act of God or other public exigency that 744
requires an immediate taking of property to protect public health 745
or safety or in case of a voluntary conveyance, the amount of 746
compensation awarded under division (B)(3)(a) of this section 747
shall not exceed fifteen days net profit of the business on an 748
annualized basis. The owner may request the agency to increase 749

that period by up to fifteen additional days. If the agency fails 750
to pay the compensation as provided under division (B)(3)(a) of 751
this section or denies the request, the owner may seek an award of 752
such compensation pursuant to this section. 753

Sec. 163.19. Subject to sections 163.07 and 163.09 of the 754
Revised Code, any party may prosecute appeals as in other civil 755
actions from the judgment of the court. ~~The trial court upon~~ 756
~~proper terms may suspend the execution of any order; but in all~~ 757
~~eases where the agency pays or deposits the amount of the award~~ 758
~~assessed and gives adequate security for any further compensation~~ 759
~~and costs, as required by the court, the right to take and use the~~ 760
~~property appropriated shall not be affected by such review by the~~ 761
~~appellate courts.~~ 762

The owner may request, and the court may grant, a stay on 763
appeal, provided that the owner posts a supersedeas bond in an 764
amount the court determines. 765

Sec. 163.21. (A)(1) If it has not taken possession of 766
property that is appropriated, an agency may abandon appropriation 767
proceedings under sections 163.01 to 163.22 of the Revised Code at 768
any time after the proceedings are commenced but not later than 769
ninety days after the final determination of the cause. 770

(2) In all cases of abandonment as described in division 771
(A)(1) of this section, the court shall enter a judgment against 772
the agency for costs, including jury fees, and shall enter a 773
judgment in favor of each affected owner, in amounts that the 774
court considers to be just, for each of the following that the 775
owner incurred: 776

(a) Witness fees, including expert witness fees; 777

(b) Attorney's fees; 778

(c) Other actual expenses. 779

(B)(1) ~~Except as provided in division (B)(2) of this section,~~ 780
~~if in~~ In appropriation proceedings under sections 163.01 to 163.22 781
of the Revised Code or, ~~as authorized by divisions (A) and (B),~~ 782
~~(C), and (D)~~ of section 163.02 of the Revised Code, ~~in for~~ 783
appropriation proceedings in time of a public exigency under other 784
sections of the Revised Code, if the court determines that an 785
agency is not entitled to appropriate particular property, the 786
court shall enter both of the following: 787

(a) A judgment against the agency for costs, including jury 788
fees; 789

(b) A judgment in favor of each affected owner, in amounts 790
that the court considers to be just, for the owner's reasonable 791
disbursements and expenses, to include witness fees, ~~including~~ 792
expert witness fees, ~~for~~ attorney's fees, appraisal and 793
engineering fees, and for other actual expenses that the owner 794
incurred in connection with the proceedings. 795

(2) ~~This division does not apply to a state agency that is~~ 796
~~subject to section 163.62 of the Revised Code in connection with~~ 797
~~condemnation proceedings~~ Any award to an owner pursuant to this 798
section shall be paid by the head of the agency for whose benefit 799
the appropriation proceedings were initiated. 800

(C)(1) Except as otherwise provided in division (C)(2) or (3) 801
of this section and subject to division (C)(5) of this section, 802
when an agency appropriates property and the final award of 803
compensation is greater than one hundred twenty-five per cent of 804
the agency's good faith offer for the property or, if before 805
commencing the appropriation proceeding the agency made a revised 806
offer based on conditions indigenous to the property that could 807
not reasonably have been discovered at the time of the good faith 808
offer, one hundred twenty-five per cent of the revised offer, the 809
court shall enter judgment in favor of the owner, in amounts the 810
court considers just, for all costs and expenses, including 811

attorney's and appraisal fees, that the owner actually incurred. 812

(2) The court shall not enter judgment for costs and 813
expenses, including attorney's fees and appraisal fees, if the 814
agency is appropriating property in time of war or other public 815
exigency imperatively requiring its immediate seizure, for the 816
purpose of making or repairing roads that shall be open to the 817
public without charge, for the purpose of implementing rail 818
service under Chapter 4981. of the Revised Code, or under section 819
307.08, 504.19, 6101.181, 6115.221, 6117.39, or 6119.11 of the 820
Revised Code as the result of a public exigency, or the agency is 821
a municipal corporation that is appropriating property as a result 822
of a public exigency, except that the court shall enter judgment 823
in favor of the owner for costs and expenses, including attorney's 824
and appraisal fees, that the owner actually incurred only if the 825
property being appropriated is land used for agricultural purposes 826
as defined in section 303.01 or 519.01 of the Revised Code, or the 827
county auditor of the county in which the land is located has 828
determined under section 5713.31 of the Revised Code that the land 829
is "land devoted exclusively to agricultural use" as defined in 830
section 5713.30 of the Revised Code and the final award of 831
compensation is more than one hundred fifty per cent of the 832
agency's good faith offer or a revised offer made by the agency 833
under division (C)(1) or (3) of this section. 834

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(3) The court shall not enter judgment for costs and 836
expenses, including attorney's fees and appraisal fees, that the 837
owner actually incurred if the owner and the agency exchanged 838
appraisals prior to the filing of the petition and the final award 839
of compensation was not more than one hundred twenty-five per cent 840
of the agency's first offer for the property made subsequent to 841
the exchange of appraisals and at least thirty days before the 842
filing of the petition. 843

(4) An award of costs and expenses, including attorney's and appraisal fees, that the owner actually incurred, under division (C) of this section shall not exceed the lesser of twenty-five per cent of the amount by which the final award of compensation exceeds the agency's initial good faith offer or revised offer or twenty-five per cent of the amount by which the final award of compensation exceeds the agency's last written offer made not less than forty-five days before the date initially designated for trial by the court. 844
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(5)(a) An award of costs and expenses, including attorney's and appraisal fees, that the owner actually incurred, made under division (G) of section 163.09 of the Revised Code is not subject to the conditions and limitations set forth in divisions (C)(1), (2), (3), and (4) of this section. 853
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(b) The court shall not enter judgment for costs and expenses, including attorney's fees and appraisal fees, under division (C) of this section unless not less than fifty days prior to the date initially designated by the court for trial the owner provided the agency with an appraisal or summary appraisal of the property being appropriated or with the owner's sworn statement setting forth the value of the property and an explanation of how the owner arrived at that value. 858
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Sec. 163.211. If an agency decides not to use appropriated property for the purpose stated in the appropriation petition, the prior owner from whom the property was appropriated may repurchase the property for its fair market value as determined by an independent appraisal made by an appraiser chosen by agreement of the parties or, if the parties cannot agree, an appraiser chosen by the court. The right of repurchase shall be extinguished if any of the following occur: 866
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(A) The prior owner declines to repurchase the property. 874

(B) The prior owner fails to repurchase the property within 875
sixty days after the public agency offers the property for 876
repurchase. 877

(C) A plan, contract, or arrangement is authorized that 878
commences an urban renewal project that includes the property. 879

(D) The agency grants or transfers the property to any other 880
person or agency. 881

(E) Five years have passed since the property was 882
appropriated. 883

(F) Prior to the filing of the petition for appropriation, 884
the appropriated property was a blighted parcel, and the prior 885
owner contributed to the blight. 886

Sec. 163.53. (A) Whenever the acquisition of real property 887
for a program or project undertaken by a displacing agency will 888
result in the displacement of any person, the head of the agency 889
shall make a payment to any displaced person, upon proper 890
application as approved by such agency head, for all of the 891
following: 892

(1) Actual reasonable expenses in moving ~~himself~~ the person, 893
~~his~~ the person's family, business, farm operation, or other 894
personal property; 895

(2) Actual direct losses of tangible personal property as a 896
result of moving or discontinuing a business or farm operation, 897
but not to exceed an amount equal to the reasonable expenses that 898
would have been required to relocate such property, as determined 899
by the head of the displacing agency; 900

(3) Actual reasonable expenses in searching for a replacement 901
business or farm, but not to exceed two thousand five hundred 902
dollars; 903

(4) Actual and reasonable expenses necessary to reestablish a 904

displaced farm, nonprofit organization, or small business at its 905
new site, but not to exceed ten thousand dollars. 906

(B) Any displaced person eligible for payments under division 907
(A) of this section who is displaced from a dwelling and who 908
elects to accept the payments authorized by this division in lieu 909
of the payments authorized by division (A) of this section may 910
receive an expense and dislocation allowance, determined according 911
to a schedule established by the head of the displacing agency. 912

(C) Any displaced person eligible for payments under division 913
(A) of this section who is displaced from ~~his~~ the person's place 914
of business or from ~~his~~ the person's farm operation may qualify 915
for the payment authorized by this division in lieu of the payment 916
authorized by division (A) of this section. The payment authorized 917
by this division shall consist of a fixed payment in an amount to 918
be determined according to criteria established by the head of the 919
lead agency, except that such payment shall be not less than one 920
thousand dollars nor more than twenty thousand dollars. A person 921
whose sole business at the displacement dwelling is the rental of 922
such property to others does not qualify for a payment under this 923
division. 924

(D)(1) Except as provided in section 5501.51 of the Revised 925
Code, if a program or project undertaken by a displacing agency 926
results in the relocation of a utility facility, and the purpose 927
of the program or project was not to relocate or reconstruct any 928
utility facility; and if the owner of the utility facility which 929
is being relocated under such program or project has entered into 930
a franchise or similar agreement with the state or local 931
government on whose property, easement, or right-of-way such 932
facility is located with respect to the use of such property, 933
easement, or right-of-way; and if the relocation of such facility 934
results in such owner incurring an extraordinary cost in 935
connection with such relocation; then the displacing agency may, 936

in accordance with such rules as the head of the lead agency may 937
adopt, provide to such owner a relocation payment which may not 938
exceed the amount of such extraordinary cost, less any increase in 939
the value of the new utility facility above the value of the old 940
utility facility, and less any salvage value derived from the old 941
utility facility. 942

(2) As used in division (D) of this section: 943

(a) "Extraordinary cost in connection with a relocation" 944
means any cost incurred by the owner of a utility facility in 945
connection with relocation of such facility that is determined by 946
the head of the displacing agency, under such rules as the head of 947
the lead agency shall adopt, to be a nonroutine relocation 948
expense, to be a cost that owner ordinarily does not include in 949
its annual budget as an expense of operation, and to meet such 950
other requirements as the lead agency may prescribe in such rules. 951

(b) "Utility facility" means any electric, gas, water, steam 952
power, or materials transmission or distribution system; any 953
transportation system; any communications system, including cable 954
television; and any fixture, equipment, or other property 955
associated with the operation, maintenance, or repair of any such 956
system; which is located on property owned by a state or local 957
government or over which a state or local government has an 958
easement or right-of-way. A utility facility may be publicly, 959
privately, or cooperatively owned. 960

Sec. 163.62. (A) The court having jurisdiction of a 961
proceeding instituted by a state agency to acquire real property 962
by condemnation shall award the owner of any right, or title to, 963
or interest in, such real property such sum as will in the opinion 964
of the court reimburse such owner for ~~his~~ the owner's reasonable 965
costs, disbursements, and expenses, including reasonable attorney, 966
appraisal, and engineering fees, actually incurred because of the 967

condemnation proceeding, ~~if either:~~ 968

~~(1) The final judgment is that the agency cannot acquire the
real property by condemnation; or~~ 969
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~~(2) The proceeding is abandoned by the state agency as
provided in division (G) of section 163.09 or division (A) or (C)
of section 163.21 of the Revised Code, as applicable.~~ 971
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(B) Any award made pursuant to division (A) of this section 974
shall be paid by the head of the agency for whose benefit the 975
condemnation proceeding was instituted. 976

Sec. 163.63. Any reference in the Revised Code to any 977
authority to acquire real property by "condemnation" or to take 978
real property pursuant to a power of eminent domain is deemed to 979
be an appropriation of real property pursuant to this chapter and 980
any such taking or acquisition shall be made pursuant to this 981
chapter. 982

Sec. 303.26. As used in sections 303.26 to 303.56, ~~inclusive,~~ 983
of the Revised Code, unless a different meaning is clearly 984
indicated by the context: 985

(A) "Municipality" means any incorporated city or village of 986
the state. 987

(B) "Public body" means the state, any county, municipality, 988
township, board, commission, authority, district, or other 989
subdivision. 990

(C) "Federal government" means the United States or any 991
agency or instrumentality, corporate or otherwise thereof. 992

~~(D) "Slum area" means an area within a county but outside the
corporate limits of any municipality, in which area there is a
predominance of buildings or improvements, whether residential or
nonresidential, which by reason of dilapidation, deterioration,~~ 993
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~~age or obsolescence, inadequate provision for ventilation, light, 997
air, sanitation, or open spaces, high density of population and 998
overcrowding, or the existence of conditions which endanger life 999
or property, by fire and other causes, or any combination of such 1000
factors is conducive to ill health, transmission of disease, 1001
infant mortality, juvenile delinquency, or crime, and is 1002
detrimental to the public health, safety, morals, or welfare has 1003
the meaning defined in section 1.08 of the Revised Code. 1004~~

~~(E) "Blighted area" means an area within a county but outside 1005
the corporate limits of any municipality, which area by reason of 1006
the presence of a substantial number of slum, deteriorated, or 1007
deteriorating structures, predominance of defective or inadequate 1008
street layout, faulty lot layout in relation to size, adequacy, 1009
accessibility, or usefulness, insanitary or unsafe conditions, 1010
deterioration of site or other improvements, diversity of 1011
ownership, tax or special assessment delinquency exceeding the 1012
fair value of the land, defective or unusual conditions to title, 1013
or the existence of conditions which endanger life or property by 1014
fire and other causes, or any combination of such factors, 1015
substantially impairs or arrests the sound growth of a county, 1016
retards the provision of housing accommodations, or constitutes an 1017
economic or social liability and is a menace to the public health, 1018
safety, morals, or welfare in its present condition and use has 1019
the meaning defined in section 1.08 of the Revised Code. 1020~~

~~If such blighted area consists of open land, the provisions 1021
of section 303.34 of the Revised Code shall apply. 1022~~

~~Any disaster area referred to in section 303.36 of the 1023
Revised Code shall constitute a "blighted area". 1024~~

~~(F) "County renewal project" may include undertakings and 1025
activities of a county in a county renewal area for the 1026
elimination and for the prevention of the development or spread of 1027
slums and blight, and may involve slum clearance and redevelopment 1028~~

in a county renewal area, or rehabilitation or conservation in a 1029
county renewal area, or any combination or part thereof, in 1030
accordance with a county renewal plan, and such aforesaid 1031
undertakings and activities may include acquisition of a slum area 1032
or a blighted area, or portion thereof; demolition and removal of 1033
buildings and improvements; installation, construction, or 1034
reconstruction of streets, utilities, parks, playgrounds, and 1035
other improvements necessary for carrying out in the county 1036
renewal area the county renewal objectives of sections 303.26 to 1037
303.56, inclusive, of the Revised Code in accordance with the 1038
county renewal plan; disposition of any property acquired in the 1039
county renewal area, including sale, initial leasing, or retention 1040
by the county itself, at its fair value for uses in accordance 1041
with the county renewal plan; carrying out plans for a program of 1042
voluntary or compulsory repair and rehabilitation of buildings or 1043
other improvements in accordance with the county renewal plan; and 1044
acquisition of any other real property in the county renewal area 1045
where necessary to eliminate unhealthful, insanitary, or unsafe 1046
conditions; lessen density, eliminate obsolete, or other uses 1047
detrimental to the public welfare, or otherwise to remove or 1048
prevent the spread of blight or deterioration, or to provide land 1049
for needed public facilities. 1050

(G) "County renewal area" means a slum area or a blighted 1051
area or a combination thereof which the board of county 1052
commissioners designates as appropriate for a county renewal 1053
project. 1054

(H) "County renewal plan" means a plan, as it exists from 1055
time to time, for a county renewal project, which plan shall 1056
conform to the general plan for the county, except as provided in 1057
section 303.36 of the Revised Code, and shall be sufficiently 1058
complete to indicate such land acquisition, demolition, and 1059
removal of structures, redevelopment, improvements, and 1060

rehabilitation as may be proposed to be carried out in the county 1061
renewal area, zoning, and planning changes, if any, land uses, 1062
maximum densities, building requirements, and the plan's 1063
relationship to definite local objectives respecting appropriate 1064
land uses, improved traffic, public transportation, public 1065
utilities, recreational and community facilities, and other public 1066
improvements. 1067

(I) "Redevelopment" and derivatives thereof, when used with 1068
respect to a county renewal area, mean development as well as 1069
redevelopment. 1070

(J) "Real property" includes all lands, including 1071
improvements and fixtures thereon, and property of any nature 1072
appurtenant thereto, or used in connection therewith, and every 1073
estate, interest, right, and use, legal or equitable, therein, 1074
including terms for years and liens by way of judgment, mortgage, 1075
or otherwise. 1076

(K) "Person" means any individual, firm, partnership, 1077
corporation, company, association, joint stock association, or 1078
body politic, and includes any trustee, receiver, assignee, or 1079
other person acting in a similar representative capacity. 1080

(L) "Obligee" includes any bondholder, agents, or trustees 1081
for any bondholders, or lessor demising to the county property 1082
used in connection with a county renewal project, or any assignee 1083
or assignees of such lessor's interest or any part thereof, and 1084
the federal government when it is a party to any contract with the 1085
county. 1086

(M) "Bond," as used in section 303.46 of the Revised Code, 1087
means bonds, including refunding bonds, notes, interim 1088
certificates of special indebtedness, debentures, or other 1089
obligations of a county, payable and secured as authorized by 1090
section 303.46 of the Revised Code. 1091

Sec. 719.012. In order to rehabilitate a building or 1092
structure that a municipal corporation determines to be a threat 1093
~~to the public health, safety, or welfare; that has been declared~~ 1094
~~to be a public nuisance under Chapter 3707., 3709., or 3781. of~~ 1095
~~the Revised Code; and that either has been found to be insecure,~~ 1096
~~unsafe, structurally defective, unhealthful, or unsanitary under~~ 1097
~~sections 715.26 to 715.30 of the Revised Code or violates a~~ 1098
~~building code or ordinance adopted under section 731.231~~ blighted 1099
property as defined in section 1.08 of the Revised Code, a 1100
municipal corporation may appropriate, in the manner provided in 1101
sections 163.01 to 163.22 of the Revised Code, any such building 1102
or structure and the real property of which it is a part. The 1103
municipal corporation shall rehabilitate the building or structure 1104
or cause it to be rehabilitated within two years after the 1105
appropriation, so that the building or structure is no longer a 1106
public nuisance, insecure, unsafe, structurally defective, 1107
unhealthful, or unsanitary, or a threat to the public health, 1108
safety, or welfare, or in violation of a building code or 1109
ordinance adopted under section 731.231 of the Revised Code. Any 1110
building or structure appropriated pursuant to this section which 1111
is not rehabilitated within two years shall be demolished. 1112

If during the rehabilitation process the municipal 1113
corporation retains title to the building or structure and the 1114
real property of which it is a part, then within one hundred 1115
eighty days after the rehabilitation is complete, the municipal 1116
corporation shall appraise the rehabilitated building or structure 1117
and the real property of which it is a part, and shall sell the 1118
building or structure and property at public auction. The 1119
municipal corporation shall advertise the public auction in a 1120
newspaper of general circulation in the municipal corporation once 1121
a week for three consecutive weeks prior to the date of sale. The 1122
municipal corporation shall sell the building or structure and 1123

real property to the highest and best bidder. No property that a 1124
municipal corporation acquires pursuant to this section shall be 1125
leased. 1126

Sec. 1728.01. As used in sections 1728.01 to 1728.13 of the 1127
Revised Code: 1128

(A) "Governing body" means, in the case of a municipal 1129
corporation, the city council or legislative authority. 1130

(B) "Community urban redevelopment corporation" means a 1131
corporation qualified under Chapter 1728. of the Revised Code, to 1132
acquire, construct, operate, and maintain a project hereunder, or 1133
to acquire, operate, and maintain a project constructed by a 1134
corporation so qualified under Chapter 1728. of the Revised Code, 1135
and the term "corporation" when used within Chapter 1728. of the 1136
Revised Code, shall be understood to be a contraction of the term 1137
"community urban redevelopment corporation" except when the 1138
context indicates otherwise. 1139

(C) "Impacted city" means a municipal corporation that meets 1140
the requirements of either division (C) (1) or (2) of this 1141
section: 1142

(1) In attempting to cope with the problems of urbanization, 1143
to create or preserve jobs and employment opportunities, and to 1144
improve the economic welfare of the people of the municipal 1145
corporation, the municipal corporation has at some time: 1146

(a) Taken affirmative action by its legislative body to 1147
permit the construction of housing by a metropolitan housing 1148
authority organized pursuant to sections 3735.27 to 3735.39 of the 1149
Revised Code within its corporate boundaries or to permit such a 1150
metropolitan housing authority to lease dwelling units within its 1151
corporate boundaries; and 1152

(b) Been certified by the director of the department of 1153

development that a workable program for community improvement 1154
(which shall include an official plan of action for effectively 1155
dealing with the problem of urban slums and blight within the 1156
community and for the establishment and preservation of a 1157
well-planned community with well-organized residential 1158
neighborhoods of decent homes and suitable living environment for 1159
adequate family life) for utilizing appropriate private and public 1160
resources to eliminate, and to prevent the development or spread 1161
of, slums and urban blight, to encourage needed urban 1162
rehabilitation, to provide for the redevelopment of blighted, 1163
deteriorated, or slum areas, to undertake such activities or other 1164
feasible community activities as may be suitably employed to 1165
achieve the objectives of such a program has been adopted. A 1166
determination by the United States that the impacted city's 1167
workable program meets the federal workable program requirements 1168
shall be sufficient for the director's certification. 1169

(2) Been declared a major disaster area, or part of a major 1170
disaster area, pursuant to the "Disaster Relief Act of 1970," 84 1171
Stat. 1744, 42 U.S.C.A. 4401, as now or hereafter amended, and has 1172
been extensively damaged or destroyed by a major disaster, 1173
provided that impacted city status obtained pursuant to division 1174
(C) (2) of this section lasts for only a limited period from the 1175
date of the declaration, as determined by the rules promulgated 1176
pursuant to division (G) of section 122.06 of the Revised Code, 1177
but in the event that an impacted city, while qualified under such 1178
division, enters into a financial agreement with a community urban 1179
redevelopment corporation pursuant to section 1728.07 of the 1180
Revised Code, a loss of certification under such rules shall not 1181
affect that agreement or the project to which it relates. 1182

(D) "Community development plan" means a plan, as it exists 1183
from time to time, for the redevelopment and renewal of a blighted 1184
area, which plan shall conform to the general plan for the 1185

municipality, and shall be sufficiently complete to indicate such 1186
land acquisition, demolition, and removal of structures, 1187
redevelopment, improvements, and rehabilitation as may be proposed 1188
to be carried out in such blighted area, zoning, and any planning 1189
changes, land uses, maximum densities, and building requirements. 1190

(E) "~~Blighted area~~" ~~means an area within a municipality~~ 1191
~~containing a majority of structures that have been extensively~~ 1192
~~damaged or destroyed by a major disaster, or that, by reason of~~ 1193
~~dilapidation, deterioration, age or obsolescence, inadequate~~ 1194
~~provision for ventilation, light, air, sanitation, or open spaces,~~ 1195
~~unsafe and unsanitary conditions or the existence of conditions~~ 1196
~~which endanger lives or properties by fire or other hazards and~~ 1197
~~causes, or that, by reason of location in an area with inadequate~~ 1198
~~street layout, incompatible land uses or land use relationships,~~ 1199
~~overcrowding of buildings on the land, excessive dwelling unit~~ 1200
~~density, or other identified hazards to health and safety, are~~ 1201
~~conducive to ill health, transmission of disease, juvenile~~ 1202
~~delinquency and crime and are detrimental to the public health,~~ 1203
~~safety, morals and general welfare~~ has the meaning defined in 1204
section 1.08 of the Revised Code. 1205

(F) "Project" means: 1206

(1) As to blighted areas within all municipal corporations, 1207
the undertaking and execution of the redevelopment of a blighted 1208
area by a community urban redevelopment corporation, in whole or 1209
in part, pursuant to a community development plan approved by the 1210
governing body of the municipal corporation in which such blighted 1211
area is situated and in accordance with an agreement for the sale 1212
or lease of all or a portion of the land concerned in such 1213
redevelopment to the corporation by a municipal corporation, or 1214
agency, or authority including the work to be done in reference 1215
thereto, the designation of the particular proposed buildings to 1216
be constructed and their uses and purposes, the landscaping of the 1217

premises, the streets and access roads, recreational facilities, 1218
if any, the furnishing of the public utilities, the financial 1219
arrangements, and the terms and conditions of the proposed 1220
municipal corporation and approval; and 1221

(2) In addition as to blighted areas within impacted cities, 1222
the undertaking and activities of a community urban redevelopment 1223
corporation in a blighted area for the elimination and for the 1224
prevention of the development or spread of blight pursuant to a 1225
community development plan approved by the governing body of the 1226
impacted city and to the extent agreed to by the governing body of 1227
the impacted city in the financial agreement provided for in 1228
section 1728.07 of the Revised Code and may involve clearance and 1229
redevelopment, or rehabilitation or conservation or any 1230
combination or part thereof, in accordance with such community 1231
development plan, and such aforesaid undertakings and activities 1232
may include acquisition of a blighted area or portion by purchase 1233
or otherwise, and demolition and removal of buildings and 1234
improvements. 1235

(G) "Total project unit cost" or "total project cost" means 1236
the aggregate of the following items as related to any unit of a 1237
project if the project is to be undertaken in units or to the 1238
total project if the project is not to be undertaken in units: 1239

(1) Cost of the land to the community urban redevelopment 1240
corporation; 1241

(2) Architects', engineers', and attorneys' fees paid or 1242
payable by the corporation in connection with the planning, 1243
construction, and financing of the project; 1244

(3) Surveying and testing charges in connection therewith; 1245

(4) Actual construction cost as certified by the architect, 1246
including the cost of any preparation of the site undertaken at 1247
the corporation's expense; 1248

(5) Insurance, interest, and finance costs during construction;	1249
	1250
(6) Cost of obtaining initial permanent financing;	1251
(7) Commissions and other expenses paid or payable in connection with initial leasing;	1252
	1253
(8) Real estate taxes and assessments during the construction period;	1254
	1255
(9) Developer's overhead based on a percentage of division (G) (4) of this section, to be computed in accordance with the following schedule:	1256
	1257
	1258
\$500,000 or less - 10 per cent	1259
500,001 through \$ 1,000,000 - \$50,000 plus 8 per cent on excess above \$500,000	1260
	1261
1,000,001 through 2,000,000 - 90,000 plus 7 per cent on excess above 1,000,000	1262
	1263
2,000,001 through 3,500,000 - 160,000 plus 5.6667 per cent on excess above 2,000,000	1264
	1265
3,500,001 through 5,500,000 - 245,000 plus 4.25 per cent on excess above 3,500,000	1266
	1267
5,500,001 through 10,000,000 - 330,000 plus 3.7778 per cent on excess above 5,500,000	1268
	1269
Over 10,000,000 - 5 per cent	1270
(H) "Annual gross revenue" means the total annual gross rental and other income of a community urban redevelopment corporation from the project. If in any leasing, any real estate taxes or assessments on property included in the project, any premiums for fire or other insurance on or concerning property included in the project, or any operating or maintenance expenses ordinarily paid by a landlord are to be paid by the tenant, such payments shall be computed and deemed to be part of the rent and shall be included in the annual gross revenue. The financial	1271
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agreement provided for in section 1728.07 of the Revised Code 1280
shall establish the method of computing such additional revenue, 1281
and may establish a method of arbitration where either the 1282
landlord or the tenant disputes the amount of such payments so 1283
included in the annual gross revenue. 1284

(I) "Major disaster" means any tornado, storm, flood, high 1285
water, wind-driven water, tidal wave, earthquake, fire, or other 1286
catastrophe. 1287

Sec. 2505.02. (A) As used in this section: 1288

(1) "Substantial right" means a right that the United States 1289
Constitution, the Ohio Constitution, a statute, the common law, or 1290
a rule of procedure entitles a person to enforce or protect. 1291

(2) "Special proceeding" means an action or proceeding that 1292
is specially created by statute and that prior to 1853 was not 1293
denoted as an action at law or a suit in equity. 1294

(3) "Provisional remedy" means a proceeding ancillary to an 1295
action, including, but not limited to, a proceeding for a 1296
preliminary injunction, attachment, discovery of privileged 1297
matter, suppression of evidence, a prima-facie showing pursuant to 1298
section 2307.85 or 2307.86 of the Revised Code, a prima-facie 1299
showing pursuant to section 2307.92 of the Revised Code, or a 1300
finding made pursuant to division (A)(3) of section 2307.93 of the 1301
Revised Code. 1302

(B) An order is a final order that may be reviewed, affirmed, 1303
modified, or reversed, with or without retrial, when it is one of 1304
the following: 1305

(1) An order that affects a substantial right in an action 1306
that in effect determines the action and prevents a judgment; 1307

(2) An order that affects a substantial right made in a 1308
special proceeding or upon a summary application in an action 1309

after judgment;	1310
(3) An order that vacates or sets aside a judgment or grants a new trial;	1311 1312
(4) An order that grants or denies a provisional remedy and to which both of the following apply:	1313 1314
(a) The order in effect determines the action with respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional remedy.	1315 1316 1317 1318
(b) The appealing party would not be afforded a meaningful or effective remedy by an appeal following final judgment as to all proceedings, issues, claims, and parties in the action.	1319 1320 1321
(5) An order that determines that an action may or may not be maintained as a class action;	1322 1323
(6) An order determining the constitutionality of any changes to the Revised Code made by Am. Sub. S.B. 281 of the 124th general assembly, including the amendment of sections 1751.67, 2117.06, 2305.11, 2305.15, 2305.234, 2317.02, 2317.54, 2323.56, 2711.21, 2711.22, 2711.23, 2711.24, 2743.02, 2743.43, 2919.16, 3923.63, 3923.64, 4705.15, and 5111.018, and the enactment of sections 2305.113, 2323.41, 2323.43, and 2323.55 of the Revised Code or any changes made by Sub. S.B. 80 of the 125th general assembly, including the amendment of sections 2125.02, 2305.10, 2305.131, 2315.18, 2315.19, and 2315.21 of the Revised Code;	1324 1325 1326 1327 1328 1329 1330 1331 1332 1333
<u>(7) An order in an appropriation proceeding that may be appealed pursuant to division (B)(3) of section 163.09 of the Revised Code.</u>	1334 1335 1336
(C) When a court issues an order that vacates or sets aside a judgment or grants a new trial, the court, upon the request of either party, shall state in the order the grounds upon which the	1337 1338 1339

new trial is granted or the judgment vacated or set aside. 1340

(D) This section applies to and governs any action, including 1341
an appeal, that is pending in any court on July 22, 1998, and all 1342
claims filed or actions commenced on or after July 22, 1998, 1343
notwithstanding any provision of any prior statute or rule of law 1344
of this state. 1345

Sec. 3735.40. As used in sections 3735.27, 3735.31, and 1346
3735.40 to 3735.50 of the Revised Code: 1347

(A) "Federal government" includes the United States, the 1348
federal works administrator, or any other agency or 1349
instrumentality, corporate or otherwise, of the United States. 1350

(B) "~~Slum area~~" ~~means any area where dwellings predominate~~ 1351
~~which, by reason of dilapidation, overcrowding, faulty arrangement~~ 1352
~~or design, lack of ventilation, light, or sanitary facilities, or~~ 1353
~~any combination of these factors, are detrimental to safety,~~ 1354
~~health, or morals~~ has the meaning defined in section 1.08 of the 1355
Revised Code. 1356

(C) "Housing project" or "project" means any of the following 1357
works or undertakings: 1358

(1) Demolish, clear, or remove buildings from any slum area. 1359
Such work or undertaking may embrace the adaptation of such area 1360
to public purposes, including parks or other recreational or 1361
community purposes. 1362

(2) Provide decent, safe, and sanitary urban or rural 1363
dwellings, apartments, or other living accommodations for persons 1364
of low income. Such work or undertaking may include buildings, 1365
land, equipment, facilities, and other real or personal property 1366
for necessary, convenient, or desirable appurtenances, streets, 1367
sewers, water service, parks, site preparation, gardening, 1368
administrative, community, health, recreational, educational, 1369

welfare, or other purposes. 1370

(3) Accomplish a combination of the foregoing. "Housing 1371
project" also may be applied to the planning of the buildings and 1372
improvements, the acquisition of property, the demolition of 1373
existing structures, the construction, reconstruction, alteration, 1374
and repair of the improvements, and all other work in connection 1375
therewith. 1376

(D) "Families of low income" means persons or families who 1377
lack the amount of income which is necessary, as determined by the 1378
metropolitan housing authority undertaking the housing project, to 1379
enable them, without financial assistance, to live in decent, 1380
safe, and sanitary dwellings, without overcrowding. 1381

(E) "Families" means families consisting of two or more 1382
persons, a single person who has attained the age at which an 1383
individual may elect to receive an old age benefit under Title II 1384
of the "Social Security Act" or is under disability as defined in 1385
section 223 of that act, 49 Stat. 622 (1935), 42 U. S. C. A. 401, 1386
as amended, or the remaining member of a tenant family. 1387

(F) "Families" also means a single person discharged by the 1388
head of a hospital pursuant to section 5122.21 of the Revised Code 1389
after March 10, 1964. 1390

Section 2. That existing sections 163.01, 163.02, 163.04, 1391
163.05, 163.06, 163.09, 163.12, 163.14, 163.15, 163.19, 163.21, 1392
163.53, 163.62, 303.26, 719.012, 1728.01, 2505.02, and 3735.40 of 1393
the Revised Code are hereby repealed. 1394

Section 3. The General Assembly finds that in order to 1395
adequately protect property rights and ensure that vital public 1396
improvements are completed in a timely manner, it is necessary to 1397
provide for prompt appeals from adverse judgments in appropriation 1398
actions. As a result, the General Assembly encourages the Supreme 1399

Court of Ohio to exercise its constitutional authority under 1400
Section 5 of Article IV, Ohio Constitution, to adopt a procedural 1401
rule requiring expedited appeals in appropriation actions. 1402

Section 4. In accordance with *City of Norwood v. Horney* 1403
(2006), 110 Ohio St.3d 353, in which the Supreme Court held the 1404
right of property to be a fundamental right protected by the 1405
United States and Ohio Constitutions, the General Assembly finds 1406
that the exercise of the power of eminent domain at any level of 1407
government is a matter of statewide importance and hereby declares 1408
its intention that this act be construed to apply generally 1409
throughout the state. 1410

Section 5. Sections 1 and 2 of this act do not apply to 1411
appropriation proceedings pending on the effective date of this 1412
act. This section is not intended to indicate that such 1413
appropriation proceedings do not have to comply with the 1414
constitutional requirements set forth in *City of Norwood v. Horney* 1415
(2006), 110 Ohio St.3d 353. 1416

Section 6. Section 2505.02 of the Revised Code is presented 1417
in this act as a composite of the section as amended by both Am. 1418
Sub. H.B. 516 and Am. Sub. S.B. 80 of the 125th General Assembly. 1419
The General Assembly, applying the principle stated in division 1420
(B) of section 1.52 of the Revised Code that amendments are to be 1421
harmonized if reasonably capable of simultaneous operation, finds 1422
that the composite is the resulting version of the section in 1423
effect prior to the effective date of the section as presented in 1424
this act. 1425