

# AN ACT

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

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 163.01, 163.02, 163.04, 163.05, 163.06, 163.09, 163.12, 163.14, 163.15, 163.19, 163.21, 163.53, 163.62, 303.26, 719.012, 1728.01, 2505.02, and 3735.40 be amended and sections 1.08, 163.021, 163.041, 163.051, 163.211, and 163.63 of the Revised Code be enacted to read as follows:

Sec. 1.08. As used in the Revised Code:

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

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

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

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

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

(c) Tax or special assessment delinquencies exceeding the fair value of

the land that remain unpaid thirty-five days after notice to pay has been mailed.

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

(a) Dilapidation and deterioration;

(b) Age and obsolescence;

(c) Inadequate provision for ventilation, light, air, sanitation, or open spaces;

(d) Unsafe and unsanitary conditions;

(e) Hazards that endanger lives or properties by fire or other causes;

(f) Noncompliance with building, housing, or other codes;

(g) Nonworking or disconnected utilities;

(h) Is vacant or contains an abandoned structure;

(i) Excessive dwelling unit density;

(j) Is located in an area of defective or inadequate street layout;

(k) Overcrowding of buildings on the land;

(l) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(m) Vermin infestation;

(n) Extensive damage or destruction caused by a major disaster when the damage has not been remediated within a reasonable time;

(o) Identified hazards to health and safety that are conducive to ill health, transmission of disease, juvenile delinquency, or crime;

(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.

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

(D)(1) Notwithstanding any other provision of this section, absent any environmental or public health hazard that cannot be corrected under its current use or ownership, a property is not a blighted parcel because of any condition listed in division (B) of this section if the condition is consistent with conditions that are normally incident to generally accepted agricultural practices and the land is used for agricultural purposes as defined in section 303.01 or 519.01 of the Revised Code, or the county auditor of the county in

which the land is located has determined under section 5713.31 of the Revised Code that the land is "land devoted exclusively to agricultural use" as defined in section 5713.30 of the Revised Code.

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

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

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

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

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

~~(B)(D)~~ "Court" includes means the court of common pleas and 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 higher education that are authorized to appropriate property under section 3333.08 of the Revised Code, public parks, government buildings, port authority transportation facilities, projects by an agency that is a public utility, and similar facilities and uses of land.

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

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

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

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

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

Sec. 163.02. (A) ~~Except as provided in divisions (B), (C), (D), and (F) of this section,~~ All appropriations of real property shall be made pursuant to sections 163.01 to 163.22 of the Revised Code, except as otherwise provided in this section, as otherwise provided to abate a health nuisance or because of a public exigency as provided in division (B) of section 307.08, 6101.181, 6115.221, 6117.39, or 6119.11 or division (D) of section 504.19 of the Revised Code, or as otherwise provided to abate a health nuisance or because of a public exigency as provided in a municipal charter or ordinance.

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

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

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

(E) ~~When the director of transportation, a conservancy district, or a~~

~~sanitary district proceeds~~ Notwithstanding any authority to appropriate real property other than under sections 163.01 to 163.22 of the Revised Code, the proceedings are any proceeding to appropriate real property is subject to division (B) of section 163.21 of the Revised Code.

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

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

(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;

(2) A statement of the purpose of the appropriation as provided with the appropriation petition;

(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.

(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.

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.

(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:

(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.

(2) If the agency is governed by a legislative body, obtain a resolution from that legislative body affirming the public need for the property.

(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.

(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.

(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 agency that seeks the appropriation.

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

(B) Together with the notice that division (A) of this section requires, or after providing that notice but not less than thirty days before filing a petition pursuant to section 163.05 of the Revised Code, an agency shall provide an owner with a written good faith offer to purchase the property.

The agency may revise that offer if before commencing an appropriation proceeding the agency becomes aware of conditions indigenous to the property that could not reasonably have been discovered at the time of the initial good faith offer or if the agency and the owner exchange appraisals prior to the filing of the petition.

(C) An agency may appropriate real property only after the agency obtains an appraisal of the property and provides a copy of the appraisal to the owner or, if more than one, each owner or to the guardian or trustee of each owner. The agency need not provide an owner with a copy of the appraisal when that owner is incapable of contracting in person or by agent to convey the property and has no guardian or trustee or is unknown, or the residence of the owner cannot with reasonable diligence be ascertained. When the appraisal indicates that the property is worth less than ten thousand dollars, the agency need only provide an owner, guardian, or trustee with a summary of the appraisal. The agency shall provide the copy or summary of the appraisal to an owner, guardian, or trustee at or before the time the agency makes its first offer to purchase the property. A public utility or the head of a public agency may prescribe a procedure to waive the appraisal in cases involving the acquisition by sale or donation of property with a fair market value of ten thousand dollars or less.

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

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

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

NOTICE OF INTENT TO ACQUIRE

TO: ..... (owner(s))      DATE: .....  
..... (agency) needs your property for a ..... (description of the project)

and will need to acquire the following from you:

..... (general description of the property or easement to be acquired).

Ohio law authorizes ..... (agency) to obtain your property or an easement across your property for certain public purposes. The legal description of your property that ..... (agency) needs is: (is attached:)

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

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

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

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

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

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.

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:

..... (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).

(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.)

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).

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).

You may employ, at your own expense, appraisers and attorneys to represent you at this time or at any time during the proceedings described in this notice.

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

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

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

If you have any questions concerning this matter, you may contact us at:  
..... (full name, mailing, and street address, and phone of the agency)

..... (signature of contact person)

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

Agent of ..... (if different than agency)

Sec. 163.05. An agency ~~which~~ that has met the requirements of ~~section~~ sections 163.04 and 163.041 of the Revised Code, may commence proceedings in a proper court by filing a petition for appropriation of each

parcel or contiguous parcels in a single common ownership, or interest or right therein. The petition of a private agency shall be verified as in a civil action ~~and all~~. All petitions shall contain:

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

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

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

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

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

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

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

(G) A prayer for the appropriation;

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

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

Sec. 163.051. Either an owner of property or an agency may request that

the issue of the value of the property be submitted to nonbinding mediation. Any request for mediation shall be made in writing within ten business days after the owner files an answer pursuant to section 163.08 of the Revised Code. The court shall appoint a mediator, and the mediation shall be conducted and concluded within fifty days after the owner filed an answer. Only a judge may extend the time for concluding the mediation, and the judge may do so only for the reason of an inability to obtain an appraisal. The agency shall pay the cost of mediation.

Sec. 163.06. (A) A public agency, other than an agency appropriating property for the purposes described in division (B) of this section, ~~which~~ that qualifies pursuant to Section 19 of Article I, Ohio Constitution, may deposit with the court at the time of filing the petition the value of such property appropriated together with the damages, if any, to the residue, as determined by the public agency, and thereupon take possession of and enter upon the property appropriated. The right of possession upon deposit as provided in this division shall not extend to structures.

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

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

costs in said case.

(2) Cause pictures to be taken of all sides of said structures;

(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.

(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.

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.

(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 was filed, to hear those matters. Upon those matters, the burden of proof is upon the ~~owner~~. A agency by a preponderance of the evidence except as follows:

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

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

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

(2) Subject to the irrebuttable presumption in division (B)(1)(c) of this section, only the judge may determine the necessity of the appropriation. If, as to any or all of the property or other interests sought to be appropriated, the court determines the matters in favor of the agency, the court shall set a time for the assessment of compensation by the jury ~~within twenty~~ not less than sixty days from the date of the journalization of that determination, subject to the right of the parties to request mediation under section 163.051 of the Revised Code and the right of the owner to an immediate appeal under division (B)(3) of this section. ~~An~~ Except as provided in division (B)(3) of this section, an order of the court in favor of the agency on any of the matters or on qualification under section 163.06 of the Revised Code shall not be a final order for purposes of appeal. An order of the court against the agency on any of the matters or on the question of qualification under section 163.06 of the Revised Code shall be a final order for purposes of appeal. If a public agency has taken possession prior to such an order and such an order, after any appeal, is against the agency on any of the matters, the agency shall restore the property to the owner in its original condition or respond in damages, which may include the items set forth in division (A)(2) of section 163.21 of the Revised Code, recoverable by civil action, to which the state consents.

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

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

(D) If answers are filed pursuant to divisions (B) and (C) of this section, or an answer is filed on behalf of fewer than all the named owners, the court shall set the hearing or hearings at such times as are reasonable under all the

circumstances, but in no event later than twenty days after the issues are joined as to all necessary parties or twenty days after rule therefor, whichever is earlier.

(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 be read or exhibited to the jury.

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

(B) The jury, in its verdict, shall assess the compensation for the property appropriated and damages, if any, to the residue, to be paid to the owners. When a building or other structure is on the property appropriated or when a building or other structure is situated partly upon the land appropriated and partly upon adjoining land so that the structure cannot be

divided upon the line between such lands without manifest injury thereto, the jury, in assessing compensation to any owner of the land, shall assess the value thereof, as part of the compensation. The title to said structure shall vest in the agency which shall have the right to enter upon the adjoining land upon which any part of the structure is located for the purpose of removing said structure therefrom, after deposit in accordance with the verdict. Such removal shall be made within ninety days after taking title to the property appropriated; provided, that the court may extend removal time upon such conditions as the court requires.

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

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

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

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.

(D) The verdict shall be signed by at least three-fourths of the members of the jury.

(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.

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.

(B)(1) Whenever the appropriation of real property requires the owner, a commercial tenant, or a residential tenant identified by the owner in a notice filed with the court to move or relocate, the agency shall make a payment to that person, upon proper application as approved by the agency, for all of the following:

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

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

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

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

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

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

(b) The amount of compensation awarded under division (B)(3)(a) of this section shall not exceed twelve months net profit of the business on an annualized basis. Except as otherwise provided in division (B)(3)(c) of this section, if the agency is appropriating property in time of war or other public exigency imperatively requiring its immediate seizure, for the purpose of making or repairing roads that shall be open to the public without charge, for the purpose of implementing rail service under Chapter 4981. of the Revised Code, or 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, or the agency is a municipal corporation that is appropriating property as a result of a public exigency, the period for which the net profit of the business is calculated shall be twelve months minus the time period from the date the agency gives the notice required by section 163.04 of the Revised Code to the date the agency deposits the value of the property with the court pursuant to section 163.06 of the Revised Code or pays that amount to the owner, but in no event shall the compensation time period be less than fifteen days. If the period on which the loss is calculated is reduced to fifteen days and the relocation is unusually complex, the owner may request the agency to increase that period by up to fifteen additional days. If the agency fails to pay the compensation as provided under division (B)(3)(a) of this section or denies the request, the owner may seek an award of such compensation pursuant to this section.

(c) In case of an act of God or other public exigency that requires an immediate taking of property to protect public health or safety or in case of a voluntary conveyance, the amount of compensation awarded under division (B)(3)(a) of this section shall not exceed fifteen days net profit of the business on an annualized basis. The owner may request the agency to increase that period by up to fifteen additional days. If the agency fails to pay the compensation as provided under division (B)(3)(a) of this section or denies the request, the owner may seek an award of such compensation pursuant to this section.

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

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

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

(2) In all cases of abandonment as described in division (A)(1) of this section, the court shall enter a judgment against the agency for costs,

including jury fees, and shall enter a judgment in favor of each affected owner, in amounts that the court considers to be just, for each of the following that the owner incurred:

- (a) Witness fees, including expert witness fees;
- (b) Attorney's fees;
- (c) Other actual expenses.

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

- (a) A judgment against the agency for costs, including jury fees;
- (b) A judgment in favor of each affected owner, in amounts that the court considers to be just, for the owner's reasonable disbursements and expenses, to include witness fees, ~~including~~ expert witness fees, ~~for~~ attorney's fees, appraisal and engineering fees, and for other actual expenses that the owner incurred in connection with the proceedings.

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

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

(2) The court shall not enter judgment for costs and expenses, including attorney's fees and appraisal fees, if the agency is appropriating property in time of war or other public exigency imperatively requiring its immediate seizure, for the purpose of making or repairing roads that shall be open to the public without charge, for the purpose of implementing rail service

under Chapter 4981. of the Revised Code, or 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, or the agency is a municipal corporation that is appropriating property as a result of a public exigency, except that the court shall enter judgment in favor of the owner for costs and expenses, including attorney's and appraisal fees, that the owner actually incurred only if the property being appropriated is land used for agricultural purposes as defined in section 303.01 or 519.01 of the Revised Code, or the county auditor of the county in which the land is located has determined under section 5713.31 of the Revised Code that the land is "land devoted exclusively to agricultural use" as defined in section 5713.30 of the Revised Code and the final award of compensation is more than one hundred fifty per cent of the agency's good faith offer or a revised offer made by the agency under division (C)(1) or (3) of this section.

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

(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.

(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.

(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.

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:

(A) The prior owner declines to repurchase the property.

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

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

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

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

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

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

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

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

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

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

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

(C) Any displaced person eligible for payments under division (A) of this section who is displaced from ~~his~~ the person's place of business or from

~~his~~ the person's farm operation may qualify for the payment authorized by this division in lieu of the payment authorized by division (A) of this section. The payment authorized by this division shall consist of a fixed payment in an amount to be determined according to criteria established by the head of the lead agency, except that such payment shall be not less than one thousand dollars nor more than twenty thousand dollars. A person whose sole business at the displacement dwelling is the rental of such property to others does not qualify for a payment under this division.

(D)(1) Except as provided in section 5501.51 of the Revised Code, if a program or project undertaken by a displacing agency results in the relocation of a utility facility, and the purpose of the program or project was not to relocate or reconstruct any utility facility; and if the owner of the utility facility which is being relocated under such program or project has entered into a franchise or similar agreement with the state or local government on whose property, easement, or right-of-way such facility is located with respect to the use of such property, easement, or right-of-way; and if the relocation of such facility results in such owner incurring an extraordinary cost in connection with such relocation; then the displacing agency may, in accordance with such rules as the head of the lead agency may adopt, provide to such owner a relocation payment which may not exceed the amount of such extraordinary cost, less any increase in the value of the new utility facility above the value of the old utility facility, and less any salvage value derived from the old utility facility.

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

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

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

Sec. 163.62. (A) The court having jurisdiction of a proceeding instituted

by a state agency to acquire real property by condemnation shall award the owner of any right, or title to, or interest in, such real property such sum as will in the opinion of the court reimburse such owner for ~~his~~ the owner's reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees; actually incurred because of the condemnation proceeding, ~~if either:~~

~~(1) The final judgment is that the agency cannot acquire the real property by condemnation; or~~

~~(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.~~

(B) Any award made pursuant to division (A) of this section shall be paid by the head of the agency for whose benefit the condemnation proceeding was instituted.

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

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

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

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

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

~~(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, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property, by fire and other causes, or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals, or welfare has the meaning defined in section 1.08 of the Revised Code.~~

~~(E) "Blighted area" means an area within a county but outside the corporate limits of any municipality, which area by reason of the presence of a substantial number of slum, deteriorated, or deteriorating structures,~~

~~predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions to title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a county, retards the provision of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use has the meaning defined in section 1.08 of the Revised Code.~~

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

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

(F) "County renewal project" may include undertakings and activities of a county in a county renewal area for the elimination and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment in a county renewal area, or rehabilitation or conservation in a county renewal area, or any combination or part thereof, in accordance with a county renewal plan, and such aforesaid undertakings and activities may include acquisition of a slum area or a blighted area, or portion thereof; demolition and removal of buildings and improvements; installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the county renewal area the county renewal objectives of sections 303.26 to 303.56, inclusive, of the Revised Code in accordance with the county renewal plan; disposition of any property acquired in the county renewal area, including sale, initial leasing, or retention by the county itself, at its fair value for uses in accordance with the county renewal plan; carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the county renewal plan; and acquisition of any other real property in the county renewal area where necessary to eliminate unhealthful, insanitary, or unsafe conditions; lessen density, eliminate obsolete, or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities.

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

(H) "County renewal plan" means a plan, as it exists from time to time, for a county renewal project, which plan shall conform to the general plan for the county, except as provided in section 303.36 of the Revised Code, and shall be sufficiently complete to indicate such land acquisition, demolition, and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the county renewal area, zoning, and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

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

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

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

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

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

Sec. 719.012. In order to rehabilitate a building or structure that a municipal corporation determines to be a ~~threat to the public health, safety, or welfare; that has been declared to be a public nuisance under Chapter 3707., 3709., or 3781. of the Revised Code; and that either has been found to be insecure, unsafe, structurally defective, unhealthful, or unsanitary under sections 715.26 to 715.30 of the Revised Code or violates a building code or ordinance adopted under section 731.231~~ blighted property as defined in section 1.08 of the Revised Code, a municipal corporation may appropriate, in the manner provided in sections 163.01 to 163.22 of the

Revised Code, any such building or structure and the real property of which it is a part. The municipal corporation shall rehabilitate the building or structure or cause it to be rehabilitated within two years after the appropriation, so that the building or structure is no longer a public nuisance, insecure, unsafe, structurally defective, unhealthful, or unsanitary, or a threat to the public health, safety, or welfare, or in violation of a building code or ordinance adopted under section 731.231 of the Revised Code. Any building or structure appropriated pursuant to this section which is not rehabilitated within two years shall be demolished.

If during the rehabilitation process the municipal corporation retains title to the building or structure and the real property of which it is a part, then within one hundred eighty days after the rehabilitation is complete, the municipal corporation shall appraise the rehabilitated building or structure and the real property of which it is a part, and shall sell the building or structure and property at public auction. The municipal corporation shall advertise the public auction in a newspaper of general circulation in the municipal corporation once a week for three consecutive weeks prior to the date of sale. The municipal corporation shall sell the building or structure and real property to the highest and best bidder. No property that a municipal corporation acquires pursuant to this section shall be leased.

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

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

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

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

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

(a) Taken affirmative action by its legislative body to permit the construction of housing by a metropolitan housing authority organized

pursuant to sections 3735.27 to 3735.39 of the Revised Code within its corporate boundaries or to permit such a metropolitan housing authority to lease dwelling units within its corporate boundaries; and

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

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

(D) "Community development plan" means a plan, as it exists from time to time, for the redevelopment and renewal of a blighted area, which plan shall conform to the general plan for the municipality, and shall be sufficiently complete to indicate such land acquisition, demolition, and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in such blighted area, zoning, and any planning changes, land uses, maximum densities, and building requirements.

(E) "Blighted area" ~~means an area within a municipality containing a majority of structures that have been extensively damaged or destroyed by a major disaster, or that, by reason of dilapidation, deterioration, age or~~

~~obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, unsafe and unsanitary conditions or the existence of conditions which endanger lives or properties by fire or other hazards and causes, or that, by reason of location in an area with inadequate street layout, incompatible land uses or land use relationships, overcrowding of buildings on the land, excessive dwelling unit density, or other identified hazards to health and safety, are conducive to ill health, transmission of disease, juvenile delinquency and crime and are detrimental to the public health, safety, morals and general welfare~~ has the meaning defined in section 1.08 of the Revised Code.

(F) "Project" means:

(1) As to blighted areas within all municipal corporations, the undertaking and execution of the redevelopment of a blighted area by a community urban redevelopment corporation, in whole or in part, pursuant to a community development plan approved by the governing body of the municipal corporation in which such blighted area is situated and in accordance with an agreement for the sale or lease of all or a portion of the land concerned in such redevelopment to the corporation by a municipal corporation, or agency, or authority including the work to be done in reference thereto, the designation of the particular proposed buildings to be constructed and their uses and purposes, the landscaping of the premises, the streets and access roads, recreational facilities, if any, the furnishing of the public utilities, the financial arrangements, and the terms and conditions of the proposed municipal corporation and approval; and

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

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

(1) Cost of the land to the community urban redevelopment corporation;  
(2) Architects', engineers', and attorneys' fees paid or payable by the corporation in connection with the planning, construction, and financing of the project;

(3) Surveying and testing charges in connection therewith;

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

(5) Insurance, interest, and finance costs during construction;

(6) Cost of obtaining initial permanent financing;

(7) Commissions and other expenses paid or payable in connection with initial leasing;

(8) Real estate taxes and assessments during the construction period;

(9) Developer's overhead based on a percentage of division (G) (4) of this section, to be computed in accordance with the following schedule:

\$500,000 or less	- 10 per cent
500,001 through \$ 1,000,000	- \$50,000 plus 8 per cent on excess above \$500,000
1,000,001 through 2,000,000	- 90,000 plus 7 per cent on excess above 1,000,000
2,000,001 through 3,500,000	- 160,000 plus 5.6667 per cent on excess above 2,000,000
3,500,001 through 5,500,000	- 245,000 plus 4.25 per cent on excess above 3,500,000
5,500,001 through 10,000,000	- 330,000 plus 3.7778 per cent on excess above 5,500,000
Over 10,000,000	- 5 per cent

(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 agreement provided for in section 1728.07 of the Revised Code shall establish the method of computing such additional revenue, and may establish a method of arbitration where either the landlord or the tenant disputes the amount of such payments so included in the annual gross revenue.

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

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

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

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

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

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

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

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

(3) An order that vacates or sets aside a judgment or grants a new trial;

(4) An order that grants or denies a provisional remedy and to which both of the following apply:

(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.

(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.

(5) An order that determines that an action may or may not be maintained as a class action;

(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;

(7) An order in an appropriation proceeding that may be appealed pursuant to division (B)(3) of section 163.09 of the Revised Code.

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

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

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

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

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

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

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

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

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

(D) "Families of low income" means persons or families who lack the amount of income which is necessary, as determined by the metropolitan housing authority undertaking the housing project, to enable them, without

financial assistance, to live in decent, safe, and sanitary dwellings, without overcrowding.

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

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

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

SECTION 3. The General Assembly finds that in order to adequately protect property rights and ensure that vital public improvements are completed in a timely manner, it is necessary to provide for prompt appeals from adverse judgments in appropriation actions. As a result, the General Assembly encourages the Supreme Court of Ohio to exercise its constitutional authority under Section 5 of Article IV, Ohio Constitution, to adopt a procedural rule requiring expedited appeals in appropriation actions.

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

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

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

Am. Sub. S. B. No. 7

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Am. Sub. S. B. No. 7

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_