

House 6153 and Senate 0673

Unprecedented Expansion of Eminent Domain

Constitutional Government > Eminent Domain

Legislation moving through the Rhode Island General Assembly as House 6153 and Senate 0673 constitutes an alarming expansion of municipal eminent domain power that will apply statewide at the expense of private property owners, homeowners, developers, investors, and banks and to the detriment of economic growth and businesses.

Property owners will be subject to the following burdens in the proposed legislation, which amends the existing statute and has the following practical effects:

- For any “recreational facility” or tax increment financing (TIF) project, the proposed legislation allows a fast-track takings procedure, instead of the regular procedure outlined in the Redevelopment Act that applies to all other redevelopment projects.
- Property owners will be subject to these “quick take” eminent domain procedures that permit redevelopment agencies — which are largely made up of unelected local officials with little accountability — to move more quickly than normally allowed to take property by eminent domain. This will make it very easy for cities to engage in pretextual takings (i.e., taking a private party’s property when the government deems it better used by another private party).
- Property owners only have 30 days to challenge the vote to take their property, even if they do not get direct notice of the vote.
- If a property owner challenges the property valuation and loses, the property owner is required to pay the redevelopment agency’s attorneys’ fees.
- Property owners, homeowners, and businesses don’t receive any of their money during a challenge until the end of a lengthy process.
- Redevelopment agencies can evict property owners immediately, before owners can even challenge how much they are paid.
- Property owners can be forced to accept land as payment instead of money.
- Property owners, homeowners, and businesses are stripped of their rights under the Rhode Island

Home and Business Protection Act to receive 150% compensation and other protections against economic-development taking by the government. The redevelopment agency, simply by using TIF or building a small “recreational facility” as part of the redevelopment project, can ignore important protections designed to protect against exactly this kind of eminent domain taking.

- Property owners are required to submit to environmental testing of their property. If the agency finds a problem and does not end up taking the property, the property owner becomes responsible for remediating the environmental problem and the associated liability.
- The proposed legislation also removes the restriction in the Redevelopment Act that prohibits a redevelopment agency from owning a building or land that it acquired by eminent domain for more than five years. Redevelopment agencies can now be in the long-term landowning and property management business.
- This proposed legislation would have a chilling effect on investment and property rights.

H6153/S0673 is highly questionable legally. Redevelopment agencies have been constituted to address blighted and substandard areas; they are not economic-development agencies. Under the proposed legislation, the mere use of TIF for a project is sufficient to justify taking private property by eminent domain for economic development, even though the Rhode Island Constitution limits redevelopment agencies to the elimination or prevention of blighted and substandard areas.

If enacted, this legislation would constitute the largest expansion of the government’s eminent domain powers in Rhode Island history, and (likely) unconstitutionally expand the powers of redevelopment agencies to take private property for private economic development purposes instead of just for “public” purposes or helping to remediate blighted and substandard areas.