

**Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 08-0731.01 Bob Lackner

HOUSE BILL 08-1278

HOUSE SPONSORSHIP

Summers and White, Kerr J., Looper, and McNulty

SENATE SPONSORSHIP

Tochtrop,

House Committees

Transportation & Energy
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE EXERCISE OF THE POWER OF EMINENT DOMAIN BY**
102 **THE REGIONAL TRANSPORTATION DISTRICT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires the regional transportation district (RTD), and any copetitioner in a condemnation action with which RTD may be associated for the purpose of acquiring property for an RTD project, if any, to acquire property and rights-of-way through the exercise of its power of eminent domain only as necessary for public transit purposes. Specifies that, once acquired, the property may only be used by RTD for such purposes, including any ancillary or secondary functions necessary to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

support the purposes. In exercising the power of eminent domain, requires RTD to comply to the extent practicable with all laws that govern the use of eminent domain by the Colorado department of transportation for state highway purposes. Prohibits RTD from selling or otherwise transferring ownership of property or rights-of-way acquired through the exercise of eminent domain to any other person.

Makes explicitly clear that existing statutory provisions construing the term "public use" for purposes of eminent domain powers to exclude the taking of private property for transfer to a private entity for the purpose of economic development or enhancement of tax revenue apply to RTD or to any copetitioner in a condemnation action with which RTD may be associated for the purpose of acquiring property for an RTD project, if any.

Makes conforming amendments. Defines a term.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 32-9-161, Colorado Revised Statutes, is amended

3 **BY THE ADDITION OF A NEW SUBSECTION to read:**

4 **32-9-161. Eminent domain - definitions.** (3) (a) EXCEPT AS
5 OTHERWISE PROVIDED IN THIS SUBSECTION (3), NO PRIVATE PROPERTY
6 ACQUIRED BY EMINENT DOMAIN BY THE DISTRICT ON OR AFTER JANUARY
7 1, 2008, SHALL BE SUBSEQUENTLY TRANSFERRED TO A PRIVATE PARTY
8 UNLESS:

9 (I) THE OWNER OF THE PROPERTY CONSENTS IN WRITING TO
10 ACQUISITION OF THE PROPERTY BY EMINENT DOMAIN BY THE DISTRICT;

11 (II) (A) THE GOVERNING BODY OF THE DISTRICT DETERMINES
12 WITHIN TEN YEARS OF THE DATE OF THE EARLIER OF POSSESSION OR
13 TRANSFER OF TITLE TO THE DISTRICT THAT THE PROPERTY IS NO LONGER
14 NECESSARY FOR THE PURPOSE FOR WHICH IT WAS ORIGINALLY ACQUIRED,
15 AND THE DISTRICT FIRST OFFERS TO SELL THE PROPERTY TO THE OWNER
16 FROM WHOM IT WAS ACQUIRED, IF THE OWNER CAN BE LOCATED, AT A
17 PRICE PER SQUARE FOOT NOT TO EXCEED THAT PAID BY THE DISTRICT AND

1 THE OWNER DECLINES TO EXERCISE SUCH RIGHT OF FIRST REFUSAL.

2 (B) THE OFFER DESCRIBED IN SUB-SUBPARAGRAPH (A) OF THIS
3 SUBPARAGRAPH (II) TO BE MADE TO THE OWNER FROM WHOM THE
4 PROPERTY WAS ACQUIRED SHALL BE EXTENDED BY THE DISTRICT IN
5 WRITING IN THE FORM OF A NOTICE OF DISPOSITION OF PROPERTY. THE
6 DISTRICT SHALL SEND THE NOTICE BY CERTIFIED MAIL, RETURN RECEIPT
7 REQUESTED, TO THE OWNER AT THE OWNER'S LAST-KNOWN MAILING
8 ADDRESS. IF, NOT LATER THAN NINETY DAYS AFTER THE NOTICE IS
9 MAILED, THE OWNER FAILS TO RESPOND IN WRITING TO THE DISTRICT'S
10 OFFER BY MEANS OF AN EXPRESSION OF INTEREST IN ACCEPTING THE
11 OFFER, THE DISTRICT MAY TRANSFER THE PROPERTY TO A THIRD PARTY OF
12 ITS OWN CHOOSING ON SUCH TERMS AS IT SPECIFIES IN THE OFFER.

13 (III) THE PROPERTY ACQUIRED BY THE DISTRICT HAS BEEN
14 ABANDONED; OR

15 (IV) THE OWNER OF THE PROPERTY HAS REQUESTED OR PLEADED
16 IN AN EMINENT DOMAIN ACTION THAT THE DISTRICT ALSO ACQUIRE
17 PROPERTY THAT IS NOT ESSENTIAL TO THE PURPOSE OF THE ACQUISITION
18 ON THE BASIS THAT ACQUIRING LESS PROPERTY WOULD LEAVE THE OWNER
19 OF THE PROPERTY HOLDING AN UNECONOMIC REMNANT.

20 (b) FOR PURPOSES OF THIS SUBSECTION (3):

21 (I) "OWNER" MEANS ONLY THE RECORD OWNER OF PROPERTY.
22 "OWNER" SHALL NOT INCLUDE ANY OF THE RECORD OWNER'S HEIRS,
23 SUCCESSORS, ASSIGNS, DEVISEES, OR OTHER PERSONS CLAIMING BY OR
24 THROUGH THE RECORD OWNER.

25 (II) "PRIVATE PROPERTY" OR "PROPERTY" MEANS, AS APPLIED TO
26 REAL PROPERTY, ONLY A FEE OWNERSHIP INTEREST.

27 **SECTION 2. Effective date - applicability.** This act shall take

1 effect July 1, 2008, and shall apply to condemnation actions commenced
2 on or after said date.

3 **SECTION 3. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.