

# STATE OF NEW YORK

7968

## IN SENATE

March 14, 2018

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the eminent domain procedure law, in relation to designating blighted property and blighted areas; to amend the New York state urban development corporation act, in relation to the definition of blight and substandard or insanitary area; and to amend the general municipal law and the New York state urban development and research corporation act, in relation to substandard and insanitary areas

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 103 of the eminent domain procedure law is amended  
2 by adding a new subdivision (H) to read as follows:

3 (H) "Blighted property" and "blighted area" means property that is  
4 declared blighted under section two hundred four-a of this chapter.

5 § 2. Subdivision (B) of section 204 of the eminent domain procedure  
6 law is amended by adding a new closing paragraph to read as follows:

7 A condemnor shall not take action against a property or area when the  
8 public use, benefit, or purpose to be served by the proposed public  
9 project is to remedy blight, unless such property or area satisfies the  
10 definition of "blighted property or blighted area" as defined by section  
11 two hundred four-a of this article. The condemnor shall include such  
12 findings in its determination and findings pursuant to this subdivision  
13 in order to take action against an area or property to remedy blight.

14 § 3. The eminent domain procedure law is amended by adding a new  
15 section 204-a to read as follows:

16 § 204-a. Blighted property and blighted areas. (A) Subject to the  
17 exceptions listed in paragraph two of subdivision (B) of this section,  
18 any single property may be declared blighted if:

19 (1) (a) (I) The property is unfit for human habitation due to iden-  
20 tifiable conditions that endanger the life, health and safety of the  
21 owners, occupants, or general public. Conditions rendering property  
22 unfit for human habitation include, but are not limited to, structural  
23 defects, dilapidation, deterioration, vermin infestation, health

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 hazards, fire hazards, lack of proper sanitary facilities, obsolete  
2 systems of utilities, or inadequate maintenance; or

3 (II) The property has deteriorated to the point where:

4 1. the building is structurally unsound or poses an immediate threat  
5 to life or other property; or

6 2. the cost of rehabilitation significantly exceeds the post-rehabili-  
7 tation market value.

8 (b) The owner fails to remedy subparagraph (a) of this paragraph with-  
9 in a reasonable time after receiving notice of violation by the appro-  
10 priate governing body requiring the owner to:

11 (I) rehabilitate the building to conform to minimum code habitability  
12 requirements; or

13 (II) demolish the building for health and safety reasons.

14 (2) The property is abandoned. Property shall be deemed abandoned if:

15 (a) Property is unoccupied and has been tax delinquent for at least  
16 two years; or

17 (b) A building is unoccupied by the owner or tenants, is unfit for  
18 human habitation, and has deteriorated to the point where:

19 (I) The building is structurally unsound or poses an immediate threat  
20 to life or other property; or

21 (II) The cost of rehabilitation significantly exceeds the post-rehabi-  
22 litation market value; and

23 (III) The owner is unknown or the owner fails to respond within six  
24 months to a violation notice from the appropriate governing body requir-  
25 ing the owner to:

26 1. rehabilitate the building to conform to minimum habitability  
27 requirements; or

28 2. demolish the building for health and safety reasons.

29 (3) A vacant lot on which a building has been demolished and for which  
30 a municipal lien for demolition costs remains unpaid for six months.

31 (4) Property that is environmentally contaminated requiring remedi-  
32 ation for current or future use under state or federal law, if the owner  
33 fails to remedy the problem within six months of receiving notice of  
34 violation from the appropriate governing body.

35 (5) A premises which, because of physical condition or use, is  
36 regarded as a public nuisance at common law or has been declared a  
37 public nuisance under a statute or an applicable municipal code, and the  
38 owner fails to abate the nuisance within six months of receiving notice  
39 of violation from the appropriate governing body.

40 (6) Defective or unusual conditions of title that make the free trans-  
41 fer or alienation of the property impossible.

42 (7) Property that is occupied or unoccupied has tax delinquencies  
43 exceeding the value of the property.

44 (B) Notwithstanding the provisions of subdivision (A) of this section,  
45 the following exceptions shall apply:

46 (1) Property shall in no case be declared blighted if it meets one or  
47 more of the following criteria:

48 (a) Vacant and unimproved property located in any rural or suburban  
49 area which is not served by existing utilities.

50 (b) Property which satisfies the definition of "farm woodland", "land  
51 used in agricultural production", "unique and irreplaceable agricultural  
52 land", or "viable agricultural land", as those terms are defined in  
53 section three hundred one of the agriculture and markets law.

54 (2) For purposes of this section, if a developer or condemner involved  
55 in a redevelopment project has caused or brought about by action or  
56 inaction or maintained for more than seven years a condition listed in

1 subdivision (A) of this section within the proposed project area, that  
 2 condition may not be used in the determination of blight.

3 (3) For purposes of this section, if property located in an urbanized  
 4 area generally served by municipal infrastructure and utilities meets  
 5 one or more of the conditions listed in subdivision (A) of this section  
 6 due to failure on the part of the appropriate governing body to provide  
 7 necessary utility services and/or infrastructure, that condition may not  
 8 be used in the determination of blight.

9 (C) Multiple properties and project areas may be declared blighted.

10 (1) A condemner may use eminent domain to acquire any unit of property  
 11 within a blighted project area.

12 (2) For purposes of acquiring multiple units of property by eminent  
 13 domain, an area may be declared generally blighted only if a majority of  
 14 the individual parcels in the area are declared blighted under subdivi-  
 15 sion (A) of this section and represent a majority of the geographic area  
 16 of the project.

17 (3) Properties owned by a developer or condemner involved in a rede-  
 18 velopment project may be included in any blighted project area determi-  
 19 nation.

20 (D) For purposes of this section, a building containing multiple units  
 21 shall be treated as a single property.

22 (E) Before a property may be declared blighted pursuant to this  
 23 section, the condemner shall:

24 (1) In the case of a single property, make written findings identify-  
 25 ing the specific conditions which render the property blighted under  
 26 subdivision (A) of this section;

27 (2) In the case of multiple properties or project areas, make written  
 28 findings demonstrating that the conditions of subdivision (C) have been  
 29 met. In order to demonstrate that a majority of the individual parcels  
 30 are blighted and comprise a majority of the geographical area of the  
 31 project, each blighted property must be identified and the specific  
 32 conditions rendering it blighted under subdivision (A) of this section  
 33 must be identified.

34 (F) Any declaration made pursuant to this section shall be valid for a  
 35 period of up to fifteen years.

36 § 4. Section 206 of the eminent domain procedure law, subdivision (E)  
 37 as added by chapter 468 of the laws of 1978, is amended to read as  
 38 follows:

39 § 206. Exemptions. The condemnor shall be exempt from compliance with  
 40 the provisions of this article when:

41 (A) pursuant to other state, federal, or local law or regulation it  
 42 considers and submits factors [~~similar to those~~] enumerated in subdivi-  
 43 sion (B) of section two hundred four, to a state, federal or local  
 44 governmental agency, board or commission before proceeding with the  
 45 acquisition and obtains a license, a permit, a certificate of public  
 46 convenience or necessity or other similar approval from such agency,  
 47 board, or commission or;

48 (B) pursuant to article VII [~~or article VIII~~] of the public service  
 49 law it obtained a certificate of environmental compatibility and public  
 50 need or;

51 (C) pursuant to other law or regulation it undergoes or conducts [~~or~~  
 52 ~~offers to conduct~~] prior to an acquisition one or more public hearings  
 53 upon notice to the public and owners of property to be acquired, and  
 54 provided further that factors [~~similar to those~~] enumerated in subdivi-  
 55 sion (B) of section two hundred four herein [~~may~~] shall be considered at  
 56 such public hearings, or;

1 (D) when in the opinion of the condemnor the acquisition is de minimis  
 2 in nature so that the public interest will not be prejudiced by the  
 3 construction of the project or because of an emergency situation the  
 4 public interest will be endangered by any delay caused by the public  
 5 hearing requirement in this article.

6 (E) when it complies with the procedures contained in section 41.34 of  
 7 the mental hygiene law.

8 § 5. Section 3 of section 1 of chapter 174 of the laws of 1968,  
 9 constituting the New York state urban development corporation act, is  
 10 amended by adding a new subdivision 31 to read as follows:

11 (31) "Blighted property" and "blighted area". Property that is  
 12 declared blighted under section 204-a of the eminent domain procedure  
 13 law.

14 § 6. Subdivision 12 of section 3 of section 1 of chapter 174 of the  
 15 laws of 1968, constituting the New York state urban development corpo-  
 16 ration act, is amended to read as follows:

17 (12) "Substandard or insanitary area". The term "substandard or insan-  
 18 itary area" shall mean and be interchangeable with a [~~slum,~~] blighted[~~,~~  
 19 ~~deteriorated or deteriorating~~] area, or an area which has a blighting  
 20 influence on the surrounding area, whether residential, non-residential,  
 21 commercial, industrial, vacant or land in highways, waterways, railway  
 22 and subway tracks and yards, bridge and tunnel approaches and entrances,  
 23 or other similar facilities, over which air rights and easements or  
 24 other rights of user necessary for the use and development of such air  
 25 rights, to be developed as air rights sites for the elimination of the  
 26 blighting influence, or any combination thereof and may include land,  
 27 buildings or improvements, or air rights and concomitant easements or  
 28 other rights of user necessary for the use and development of such air  
 29 rights not in themselves substandard or insanitary.

30 § 7. The second and the sixth undesignated paragraphs of section 2 of  
 31 section 1 of chapter 174 of the laws of 1968, constituting the New York  
 32 state urban development corporation act, are amended to read as follows:

33 It is further found and declared that there exist in many munici-  
 34 palities within this state residential, nonresidential, commercial,  
 35 industrial or vacant areas, and combinations thereof, which are [~~slum~~  
 36 ~~or~~] blighted, or which are becoming [~~slum or~~] blighted areas because of  
 37 substandard[~~,~~] or insanitary conditions, [~~deteriorated or deteriorating~~  
 38 ~~conditions, including obsolete and dilapidated buildings and structures,~~  
 39 ~~defective construction, outmoded design, lack of proper sanitary facili-~~  
 40 ~~ties or adequate fire or safety protection, excessive land coverage,~~  
 41 ~~insufficient light and ventilation, excessive population density, ille-~~  
 42 ~~gal uses and conversions, inadequate maintenance, buildings abandoned or~~  
 43 ~~not utilized in whole or substantial part, obsolete systems of utili-~~  
 44 ~~ties, poorly or improperly designed street patterns and intersections,~~  
 45 ~~inadequate access to areas, traffic congestion hazardous to the public~~  
 46 ~~safety, lack of suitable off street parking, inadequate loading and~~  
 47 ~~unloading facilities, impractical street widths, sizes and shapes,~~  
 48 ~~blocks and lots of irregular form, shape or insufficient size, width or~~  
 49 ~~depth, unsuitable topography, subsoil or other physical conditions, all~~  
 50 ~~of~~] which hamper or impede proper and economic development of such areas  
 51 and which impair or arrest the sound growth of the area, community or  
 52 municipality, and the state as a whole.

53 It is further declared to be the policy of the state to promote the  
 54 safety, health, morals and welfare of the people of the state and to  
 55 promote the sound growth and development of our municipalities through  
 56 the correction of such substandard, insanitary[~~,~~] or blighted[~~,~~ ~~deteri-~~

1 ~~erated or deteriorating~~] conditions, factors and characteristics by the  
2 clearance, replanning, reconstruction, redevelopment, rehabilitation,  
3 restoration or conservation of such areas, and of areas reasonably  
4 accessible thereto the undertaking of public and private improvement  
5 programs related thereto, including the provision of educational, recre-  
6 ational and cultural facilities, and the encouragement of participation  
7 in these programs by private enterprise.

8 § 8. Paragraph (d) of subdivision 6 of section 16-n of section 1 of  
9 chapter 174 of the laws of 1968, constituting the New York state urban  
10 development corporation act, as added by section 2 of part C-2 of chap-  
11 ter 109 of the laws of 2006, is amended to read as follows:

12 (d) A municipality that is granted an award or awards under this  
13 section shall provide a matching contribution of no less than ten  
14 percent of the aggregated award or awards amount. Such matching contrib-  
15 ution may be in the form of a financial and/or in kind contribution.  
16 Financial contributions may include grants from federal, state and local  
17 entities. In kind contributions may include but shall not be limited to  
18 the efforts of municipalities to conduct an inventory and assessment of  
19 vacant, abandoned, surplus, and condemned[, ~~and deteriorated~~] properties  
20 and to manage and administer grants pursuant to subdivisions four and  
21 five of this section.

22 § 9. Section 501 of the general municipal law, as added by chapter 402  
23 of the laws of 1961, is amended to read as follows:

24 § 501. Policy and purposes of article. There exist in many munici-  
25 palities within this state residential, non-residential, commercial,  
26 industrial or vacant areas, and combinations thereof, which are [~~slum~~  
27 ~~or~~] blighted, or which are becoming [~~slum or~~] blighted areas because of  
28 substandard[, or insanitary[, ~~deteriorated or deteriorating~~] condi-  
29 tions, factors, and characteristics, with or without tangible physical  
30 blight. The existence of such areas constitutes a serious and growing  
31 menace, is injurious to the public safety, health, morals and welfare,  
32 contributes increasingly to the spread of crime, juvenile delinquency  
33 and disease, necessitates excessive and disproportionate expenditures of  
34 public funds for all forms of public service and constitutes a negative  
35 influence on adjacent properties impairing their economic soundness and  
36 stability, thereby threatening the source of public revenues.

37 In order to protect and promote the safety, health, morals and welfare  
38 of the people of the state and to promote the sound growth and develop-  
39 ment of our municipalities, it is necessary to correct such substandard,  
40 insanitary, or blighted[, ~~deteriorated or deteriorating~~] conditions,  
41 factors and characteristics by the clearance, replanning, recon-  
42 struction, redevelopment, rehabilitation, restoration or conservation of  
43 such areas, the undertaking of public and private improvement programs  
44 related thereto and the encouragement of participation in these programs  
45 by private enterprise.

46 It is necessary for the accomplishment of such purposes to grant muni-  
47 cipalities of this state the rights and powers provided in this article.  
48 The use of such rights and powers to correct such conditions, factors  
49 and characteristics and to eliminate or prevent the development and  
50 spread of [~~deterioration and~~] blight through the clearance, replanning,  
51 reconstruction, rehabilitation, conservation or renewal of such areas,  
52 for residential, commercial, industrial, community, public and other  
53 uses is a public use and public purpose essential to the public inter-  
54 est, and for which public funds may be expended.

1 § 10. Subdivision 4 of section 502 of the general municipal law, as  
2 amended by chapter 748 of the laws of 1967, is amended to read as  
3 follows:

4 4. "Substandard or insanitary area." The term "substandard or insani-  
5 tary area" shall mean and be interchangeable with a [~~slum,~~] blighted[  
6 ~~deteriorated or deteriorating~~] area, or an area which has a blighting  
7 influence on the surrounding area, whether residential, non-residential,  
8 commercial, industrial, vacant, or land in highways, railway and subway  
9 tracks, bridge and tunnel approaches and entrances, or other similar  
10 facilities, over which air rights and easements or other rights of user  
11 necessary for the use and development of such air rights, to be devel-  
12 oped as air rights sites for the elimination of the blighting influence,  
13 or any combination thereof and may include land, buildings or improve-  
14 ments, or air rights and concomitant easements or other rights of user  
15 necessary for the use and development of such air rights, not in them-  
16 selves substandard or insanitary, the inclusion of which is deemed  
17 necessary for the effective undertaking of one or more urban renewal  
18 programs.

19 § 11. Paragraph (a) of subdivision 5 of section 510 of the general  
20 municipal law, as amended by chapter 829 of the laws of 1968, is amended  
21 to read as follows:

22 (a) Notwithstanding anything contained in this article to the contra-  
23 ry, the commissioner may in the name of the state, within appropriations  
24 heretofore or hereafter made for state capital grants to assist in  
25 carrying out one or more local urban renewal programs, make or contract  
26 to make state capital grants to municipalities to assist in financing  
27 the cost of the preparation and completion of one or more community  
28 renewal programs.

29 A community renewal program may include, without being limited to (1)  
30 the identification of [~~slum areas or~~] blighted[~~, deteriorated, or dete-~~  
31 ~~riorating~~] areas in the community, (2) the measurement of the nature and  
32 degree of blight and blighting factors within such areas, (3) determi-  
33 nation of the financial, relocation, and other resources needed and  
34 available to renew such areas, (4) the identification of potential  
35 project areas and, where feasible, types of urban renewal action contem-  
36 plated within such areas, and (5) scheduling or programming of urban  
37 renewal activities.

38 § 12. Section 520 of the general municipal law, as added by chapter  
39 402 of the laws of 1961, is amended to read as follows:

40 § 520. Construction. This article shall be construed liberally to  
41 effect the purposes hereof and the enumeration of specific powers in  
42 this act shall not operate to restrict the meaning of any general grant  
43 of power contained in this chapter or to exclude other powers compre-  
44 hended in such general grant. In construing this chapter consideration  
45 shall be given to its purposes and intent, among others, of consolidat-  
46 ing, clarifying and simplifying the respective provisions of the chap-  
47 ters repealed as hereinafter specified in section five hundred twenty-  
48 five hereof and of authorizing municipalities to undertake one or more  
49 programs of urban renewal with respect to the clearance, replanning,  
50 reconstruction, rehabilitation, redevelopment, conservation, restoration  
51 or improvement of substandard, insanitary, [~~slum,~~ or] blighted[~~, deteri-~~  
52 ~~orated or deteriorating~~] residential, non-residential, improved or  
53 vacant areas, or the remedying of unsuitable topographical, subsoil or  
54 other physical conditions which tend to impede the development of such  
55 areas, for residential, commercial, industrial, community, public and  
56 other uses and to apply for and accept federal or state loans, subsidies

1 or grants in connection therewith. Insofar as the provisions of this  
2 article are inconsistent with the provisions of any other general,  
3 special or local law, the provisions of this article shall be control-  
4 ling.

5 § 13. The third undesignated paragraph of section 2 of section 1 of  
6 chapter 173 of the laws of 1968, constituting the New York state urban  
7 development and research corporation act, is amended to read as follows:

8 The legislature hereby declares it to be the policy of this state to  
9 provide an adequate supply of safe and sanitary dwelling accommodations;  
10 to increase job opportunities and protect against involuntary unemploy-  
11 ment and underemployment by promoting, attracting, stimulating and revi-  
12 talizing business, commerce, industry and manufacturing in the urban  
13 areas of the state; and to arrest the spread of [~~deterioration and~~]  
14 blight and promote the economic and physical development of such areas  
15 through the construction, reconstruction, rehabilitation and improvement  
16 of residential, commercial and industrial structures and facilities  
17 therein.

18 § 14. This act shall take effect immediately.