

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 18

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

1 RELATING TO URBAN RENEWAL; AMENDING SECTION 7-701, IDAHO CODE, TO PROVIDE
2 THAT THE RIGHT OF EMINENT DOMAIN SHALL NOT BE EXERCISED BY AN URBAN RE-
3 NEWAL AGENCY, TO PROVIDE THAT A LOCAL GOVERNING BODY MAY EXERCISE THE
4 POWER OF EMINENT DOMAIN ON BEHALF OF AN URBAN RENEWAL AGENCY AND TO MAKE
5 TECHNICAL CORRECTIONS; AMENDING SECTION 50-2002, IDAHO CODE, TO REMOVE
6 REFERENCE TO EMINENT DOMAIN; AMENDING SECTION 50-2007, IDAHO CODE, TO
7 REMOVE REFERENCE TO EMINENT DOMAIN AND TO MAKE TECHNICAL CORRECTIONS;
8 AND AMENDING SECTION 50-2010, IDAHO CODE, TO REVISE PROVISIONS CONCERN-
9 ING THE ACQUISITION OF REAL PROPERTY BY AN URBAN RENEWAL AGENCY AND TO
10 REMOVE REFERENCE TO ADMISSIBLE EVIDENCE AND TESTIMONY AT CERTAIN HEAR-
11 INGS.
12

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Section 7-701, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 7-701. USES FOR WHICH AUTHORIZED. Subject to the provisions of this
17 chapter, the right of eminent domain may be exercised in behalf of the fol-
18 lowing public uses:

19 1. Public buildings and grounds for the use of the state, and all other
20 public uses authorized by the legislature, provided that the right of em-
21 inent domain shall not be exercised by urban renewal agencies pursuant to
22 chapters 20 and 29, title 50, Idaho Code. A local governing body as defined
23 in section 50-2018(4), Idaho Code, may exercise the power of eminent domain
24 on behalf of an urban renewal agency pursuant to chapters 20 and 29, title 50,
25 Idaho Code.

26 2. Public buildings and grounds for the use of any county, incorporated
27 city or school district; canals, aqueducts, flumes, ditches or pipes for
28 conducting water for use on state property or for the use of the inhabitants
29 of any county or incorporated city, or for draining state property for any
30 county or incorporated city, raising the banks of streams, removing obstruc-
31 tions therefrom and widening, deepening or straightening their channels,
32 roads, streets, alleys, and all other public uses for the benefit of the
33 state or of any county, incorporated city or the inhabitants thereof.

34 3. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads,
35 byroads, plank and turnpike roads, steam, electric and horse railroads,
36 reservoirs, canals, ditches, flumes, aqueducts and pipes, for public
37 transportation supplying mines and farming neighborhoods with water, and
38 draining and reclaiming lands, and for storing and floating logs and lumber
39 on streams not navigable.

40 4. Roads, tunnels, ditches, flumes, pipes and dumping places for work-
41 ing mines; also outlets, natural or otherwise, for the flow, deposit or con-
42 duct of tailings or refuse matter from mines; also, an occupancy in common

1 by the owners or possessors of different mines of any place for the flow, de-
2 posit or conduct of tailings or refuse matter from their several mines.

3 5. Byroads, leading from highways to residences and farms.

4 6. Telephones, telegraph and telephone lines.

5 7. Sewerage of any incorporated city.

6 8. Cemeteries for the burial of the dead, and enlarging and adding to
7 the same and the grounds thereof.

8 9. ~~Pipe lines~~ Pipelines for the transmission, delivery, furnishing or
9 distribution of natural or manufactured gas for light, heat or power, or for
10 the transportation of crude petroleum or petroleum products; also for tanks,
11 reservoirs, storage, terminal and pumping facilities, telephone, telegraph
12 and power lines necessarily incident to such ~~pipe lines~~ pipelines.

13 10. Snow fences or barriers for the protection of highways from drift-
14 ing snow.

15 11. Electric distribution and transmission lines for the delivery,
16 furnishing, distribution, and transmission of electric current for power,
17 lighting, heating or other purposes; and structures, facilities and equip-
18 ment for the production, generation, and manufacture of electric current for
19 power, lighting, heating or other purposes.

20 SECTION 2. That Section 50-2002, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 50-2002. FINDINGS AND DECLARATIONS OF NECESSITY. It is hereby found
23 and declared that there exist in municipalities of the state deteriorated
24 and deteriorating areas (as herein defined) which constitute a serious and
25 growing menace, injurious to the public health, safety, morals and welfare
26 of the residents of the state; that the existence of such areas contributes
27 substantially and increasingly to the spread of disease and crime, consti-
28 tutes an economic and social liability imposing onerous municipal burdens
29 which decrease the tax base and reduce tax revenues, substantially impairs
30 or arrests the sound growth of municipalities, retards the provision of
31 housing accommodations, aggravates traffic problems and substantially im-
32 pairs or arrests the elimination of traffic hazards and the improvement of
33 traffic facilities; and that the prevention and elimination of these condi-
34 tions is a matter of state policy and state concern in order that the state
35 and its municipalities shall not continue to be endangered by areas which
36 are focal centers of disease, promote juvenile delinquency, and consume an
37 excessive proportion of its revenue because of the extra services required
38 for police, fire, accident, hospitalization and other forms of public pro-
39 tection, services and facilities.

40 It is further found and declared that certain of such areas, or portions
41 thereof, may require acquisition, clearance, and disposition subject to use
42 restrictions, as provided in this act, since the prevailing condition of de-
43 cay may make impracticable the reclamation of the area by conservation or re-
44 habilitation; that other areas or portions thereof may, through the means
45 provided in this act, be susceptible of conservation or rehabilitation in
46 such a manner that the conditions and evils hereinbefore enumerated may be
47 eliminated, remedied or prevented; and that salvageable areas can be con-
48 served and rehabilitated through appropriate public action as herein autho-

1 rized, and the cooperation and voluntary action of the owners and tenants of
2 property in such areas.

3 It is further found and declared that the powers conferred by this act
4 are for public uses and purposes for which public money may be expended as
5 herein provided and the ~~power of eminent domain and~~ police power exercised;
6 and that the necessity in the public interest for the provisions herein en-
7 acted is hereby declared as a matter of legislative determination.

8 SECTION 3. That Section 50-2007, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 50-2007. POWERS. Every urban renewal agency shall have all the powers
11 necessary or convenient to carry out and effectuate the purposes and provi-
12 sions of this ~~act~~ chapter, including the following powers in addition to oth-
13 ers herein granted:

14 (a) To undertake and carry out urban renewal projects and related ac-
15 tivities within its area of operation; ~~and~~ to make and execute contracts and
16 other instruments necessary or convenient to the exercise of its powers un-
17 der this ~~act~~ chapter; and to disseminate slum clearance and urban renewal in-
18 formation;

19 (b) To provide or to arrange or contract for the furnishing or repair
20 by any person or agency, public or private, of services, privileges, works,
21 streets, roads, public utilities or other facilities for or in connec-
22 tion with an urban renewal project; to install, construct, and reconstruct
23 streets, utilities, parks, playgrounds, off-street parking facilities,
24 public facilities, other buildings or public improvements; ~~and~~ any improve-
25 ments necessary or incidental to a redevelopment project; and to agree to
26 any conditions that it may deem reasonable and appropriate attached to fed-
27 eral financial assistance and imposed pursuant to federal law relating to
28 the determination of prevailing salaries or wages or compliance with labor
29 standards, in the undertaking or carrying out of an urban renewal project and
30 related activities, and to include in any contract let in connection with
31 such a project and related activities, provisions to fulfill such of said
32 conditions as it may deem reasonable and appropriate;

33 (c) Within its area of operation, to acquire by purchase, lease, op-
34 tion, gift, grant, bequest, devise, ~~eminent domain~~ or otherwise, any real
35 property or personal property for its administrative purposes, together
36 with any improvements thereon; to hold, improve, renovate, rehabilitate,
37 clear or prepare for redevelopment any such property or buildings; to mort-
38 gage, pledge, hypothecate or otherwise encumber or dispose of any real
39 property; to insure or provide for the insurance of any real or personal
40 property or operations of the municipality against any risks or hazards,
41 including the power to pay premiums on any such insurance; and to enter into
42 any contracts necessary to effectuate the purposes of this ~~act~~ chapter:
43 ~~Provided~~ however, that no statutory provision with respect to the acquisi-
44 tion, clearance or disposition of property by public bodies shall restrict a
45 municipality or other public body exercising powers hereunder in the exer-
46 cise of such functions with respect to an urban renewal project and related
47 activities, unless the legislature shall specifically so state;

48 (d) With the approval of the local governing body~~r~~: (1) prior to ap-
49 proval of an urban renewal plan, or approval of any modifications of the

1 plan, to acquire real property in an urban renewal area, demolish and remove
2 any structures on the property, and pay all costs related to the acquisition,
3 demolition, or removal, including any administrative or relocation ex-
4 penses; and (2) to assume the responsibility to bear any loss that may arise
5 as the result of the exercise of authority under this subsection in the event
6 that the real property is not made part of the urban renewal project;

7 (e) To invest any urban renewal funds held in reserves or sinking funds
8 or any such funds not required for immediate disbursement, in property
9 or securities in which savings banks may legally invest funds subject to
10 their control; to redeem such bonds as have been issued pursuant to section
11 50-2012, Idaho Code, at the redemption price established therein or to pur-
12 chase such bonds at less than redemption price, all such bonds so redeemed or
13 purchased to be canceled;

14 (f) To borrow money and to apply for and accept advances, loans, grants,
15 contributions and any other form of financial assistance from the federal
16 government, the state, county, or other public body, or from any sources,
17 public or private, for the purposes of this ~~act~~ chapter, and to give such
18 security as may be required and to enter into and carry out contracts or
19 agreements in connection therewith; and to include in any contract for
20 financial assistance with the federal government for or with respect to
21 an urban renewal project and related activities such conditions imposed
22 pursuant to federal laws as the municipality may deem reasonable and appro-
23 priate and which are not inconsistent with the purposes of this ~~act~~ chapter;

24 (g) Within its area of operation, to make or have made all surveys and
25 plans necessary to the carrying out of the purposes of this ~~act~~ chapter and
26 to contract with any person, public or private, in making and carrying out
27 such plans and to adopt or approve, modify and amend such plans, which plans
28 may include, but are not limited to: (1) plans for carrying out a program
29 of voluntary compulsory repair and rehabilitation of buildings and improve-
30 ments, (2) plans for the enforcement of state and local laws, codes and regu-
31 lations relating to the use of land and the use and occupancy of buildings and
32 improvements and to the compulsory repair, rehabilitation, demolition, or
33 removal of buildings and improvements, and (3) appraisals, title searches,
34 surveys, studies, and other plans and work necessary to prepare for the un-
35 dertaking of urban renewal projects and related activities; and to develop,
36 test, and report methods and techniques, and carry out demonstrations and
37 other activities, for the prevention and the elimination of slums and urban
38 blight and developing and demonstrating new or improved means of providing
39 housing for families and persons of low income and to apply for, accept and
40 utilize grants of funds from the federal government for such purposes;

41 (h) To prepare plans for and assist in the relocation of persons, in-
42 cluding individuals, families, business concerns, nonprofit organizations
43 and others displaced from an urban renewal area, and notwithstanding any
44 statute of this state to make relocation payments to or with respect to such
45 persons for which reimbursement or compensation is not otherwise made, in-
46 cluding the making of such payments financed by the federal government;

47 (i) To exercise all or any part or combination of powers herein granted;

48 (j) In addition to its powers under subsection (b) of this section,
49 an agency may construct foundations, platforms, and other like structural
50 forms necessary for the provision or utilization of air rights sites for

1 buildings and to be used for residential, commercial, industrial, and other
 2 uses contemplated by the urban renewal plan, and to provide utilities to the
 3 development site; and

4 (k) To use, lend or invest funds obtained from the federal government
 5 for the purposes of this act chapter if allowable under federal laws or regu-
 6 lations.

7 SECTION 4. That Section 50-2010, Idaho Code, be, and the same is hereby
 8 amended to read as follows:

9 50-2010. ACQUISITION OF PROPERTY. ~~(a)~~ An urban renewal agency shall
 10 have the right to acquire by negotiation ~~or condemnation~~ and purchase or re-
 11 ceive through gift, any interest in real property, including a fee simple
 12 title thereto, which it may deem necessary for or in connection with an ur-
 13 ban renewal project and related activities under this act. ~~An urban renewal~~
 14 ~~agency may exercise the power of eminent domain in the manner now or which may~~
 15 ~~be hereafter provided by any other statutory provisions for the exercise of~~
 16 ~~the power of eminent domain. Property already devoted to a public use may be~~
 17 ~~acquired in like manner: Provided, that no~~ No real property belonging to the
 18 United States, the state, or any political subdivision of the state, may be
 19 acquired without its consent.

20 ~~(b) In any proceeding to fix or assess compensation for damages for the~~
 21 ~~taking or damaging of property, or any interest therein, through the exer-~~
 22 ~~cise of the power of eminent domain or condemnation, evidence or testimony~~
 23 ~~bearing upon the following matters shall be admissible and shall be consid-~~
 24 ~~ered in fixing such compensation or damages, in addition to evidence or tes-~~
 25 ~~timony otherwise admissible:~~

26 ~~(1) any use, condition, occupancy, or operation of such property, which~~
 27 ~~is unlawful or violative of, or subject to elimination, abatement, prohi-~~
 28 ~~bition, or correction under, any law or any ordinance or regulatory~~
 29 ~~measure of the state, county, municipality, other political subdivi-~~
 30 ~~sion, or any agency thereof, in which such property is located, as be-~~
 31 ~~ing unsafe, substandard, insanitary or otherwise contrary to the public~~
 32 ~~health, safety, or welfare;~~

33 ~~(2) the effect on the value of such property, of any such use, condi-~~
 34 ~~tion, occupancy, or operation, or of the elimination, abatement, prohi-~~
 35 ~~bition, or correction of any such use, condition, occupancy, or opera-~~
 36 ~~tion.~~

37 ~~(c) The foregoing testimony and evidence shall be admissible notwith-~~
 38 ~~standing that no action has been taken by any public body or public officer~~
 39 ~~toward the abatement, prohibition, elimination or correction of any such~~
 40 ~~use, condition, occupancy, or operation. Testimony or evidence that any~~
 41 ~~public body or public officer charged with the duty or authority so to do has~~
 42 ~~rendered, made or issued any judgment, decree, determination or order for~~
 43 ~~the abatement, prohibition, elimination or correction of any such use, con-~~
 44 ~~dition, occupancy, or operation shall be admissible and shall be prima facie~~
 45 ~~evidence of the existence and character of such use, condition or operation.~~