

CHAPTER 367

GOVERNMENT - LOCAL

HOUSE BILL 04-1203

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AN ACT

CONCERNING LIMITATIONS ON THE POWER OF GOVERNMENTAL ENTITIES TO RESTRICT THE RIGHTS OF PROPERTY OWNERS.

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

SECTION 1. Part 1 of article 25 of title 31, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

31-25-105.5. Acquisition of private property by eminent domain by authority for transfer to subsequent private party - restrictions - exceptions - right of civil action - damages. (1) EXCEPT AS PROVIDED IN THIS SUBSECTION (1) OR SUBSECTION (2) OF THIS SECTION, NO PRIVATE PROPERTY ACQUIRED BY EMINENT DOMAIN BY AN AUTHORITY PURSUANT TO SECTION 31-25-105 (1) (e) AFTER THE EFFECTIVE DATE OF THIS SECTION SHALL BE SUBSEQUENTLY TRANSFERRED TO A PRIVATE PARTY UNLESS:

(a) THE OWNER OF THE PROPERTY CONSENTS IN WRITING TO ACQUISITION OF THE PROPERTY BY EMINENT DOMAIN BY THE AUTHORITY;

(b) THE GOVERNING BODY OF THE AUTHORITY DETERMINES THAT THE PROPERTY IS NO LONGER NECESSARY FOR THE PURPOSE FOR WHICH IT WAS ORIGINALLY ACQUIRED, AND THE AUTHORITY FIRST OFFERS TO SELL THE PROPERTY TO THE OWNER FROM WHOM IT WAS ACQUIRED, IF THE OWNER CAN BE LOCATED, AT A PRICE NOT MORE THAN THAT PAID BY THE AUTHORITY AND THE OWNER OF THE PROPERTY DECLINES TO EXERCISE SUCH RIGHT OF FIRST REFUSAL;

(c) THE PROPERTY ACQUIRED BY THE AUTHORITY HAS BEEN ABANDONED; OR

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(d) THE OWNER OF THE PROPERTY REQUESTS OR PLEADS IN AN EMINENT DOMAIN ACTION THAT THE AUTHORITY ACQUIRING THE PROPERTY ALSO ACQUIRE PROPERTY THAT IS NOT ESSENTIAL TO THE PURPOSE OF THE ACQUISITION ON THE BASIS THAT ACQUIRING LESS PROPERTY WOULD LEAVE THE OWNER OF THE PROPERTY HOLDING AN UNECONOMIC REMNANT.

(2) (a) WHERE A PROPOSED TRANSFER OF PRIVATE PROPERTY ACQUIRED BY AN AUTHORITY BY EMINENT DOMAIN DOES NOT SATISFY ONE OF THE REQUIREMENTS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, SUCH PROPERTY ACQUIRED BY EMINENT DOMAIN BY AN AUTHORITY AFTER THE EFFECTIVE DATE OF THIS SECTION MAY BE SUBSEQUENTLY TRANSFERRED TO A PRIVATE PARTY ONLY UPON SATISFACTION OF EACH OF THE FOLLOWING CONDITIONS:

(I) THE GOVERNING BODY HAS MADE A DETERMINATION THAT THE PROPERTY IS LOCATED IN A BLIGHTED AREA OR THE PROPERTY ITSELF IS BLIGHTED, AND THE URBAN RENEWAL PROJECT FOR WHICH THE PROPERTY IS BEING ACQUIRED SHALL BE COMMENCED NO LATER THAN SEVEN YEARS FROM THE DATE THE BLIGHT DETERMINATION IS MADE. FOR PURPOSES OF THIS SECTION, THE DETERMINATION OF WHETHER A PARTICULAR AREA OR PROPERTY IS BLIGHTED SHALL BE BASED UPON REASONABLY CURRENT INFORMATION OBTAINED AT THE TIME THE BLIGHT DETERMINATION IS MADE.

(II) NOT LATER THAN THE COMMENCEMENT OF THE NEGOTIATION OF AN AGREEMENT FOR REDEVELOPMENT OR REHABILITATION OF PROPERTY ACQUIRED OR TO BE ACQUIRED BY EMINENT DOMAIN, THE AUTHORITY PROVIDES NOTICE AND INVITES PROPOSALS FOR REDEVELOPMENT OR REHABILITATION FROM ALL PROPERTY OWNERS, RESIDENTS, AND OWNERS OF BUSINESS CONCERNS LOCATED ON THE PROPERTY ACQUIRED OR TO BE ACQUIRED BY EMINENT DOMAIN IN THE URBAN RENEWAL AREA BY MAILING NOTICE TO THEIR LAST KNOWN ADDRESS OF RECORD. THE AUTHORITY MAY ALSO AT THE SAME TIME INVITE PROPOSALS FOR REDEVELOPMENT OR REHABILITATION FROM OTHER INTERESTED PERSONS WHO MAY NOT BE PROPERTY OWNERS, OWNERS OF BUSINESS CONCERNS, OR RESIDENTS WITHIN THE URBAN RENEWAL AREA, AND MAY PROVIDE PUBLIC NOTICE THEREOF BY PUBLICATION IN A NEWSPAPER HAVING A GENERAL CIRCULATION WITHIN THE MUNICIPALITY IN WHICH THE AUTHORITY HAS BEEN ESTABLISHED.

(III) IN THE CASE OF A SET OF PARCELS TO BE ACQUIRED BY THE AUTHORITY IN CONNECTION WITH AN URBAN RENEWAL PROJECT, AT LEAST ONE OF WHICH IS OWNED BY AN OWNER REFUSING OR REJECTING AN AGREEMENT FOR THE ACQUISITION OF THE ENTIRE SET OF PARCELS, THE AUTHORITY MAKES A DETERMINATION THAT THE REDEVELOPMENT OR REHABILITATION OF THE REMAINING PARCELS IS NOT VIABLE UNDER THE URBAN RENEWAL PLAN WITHOUT THE PARCEL AT ISSUE.

(b) ANY OWNER OF PROPERTY LOCATED WITHIN THE URBAN RENEWAL AREA MAY CHALLENGE THE DETERMINATION OF BLIGHT MADE BY THE GOVERNING BODY PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (2) BY FILING, NOT LATER THAN THIRTY DAYS AFTER THE DATE THE DETERMINATION OF BLIGHT IS MADE, A CIVIL ACTION IN DISTRICT COURT FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED PURSUANT TO C.R.C.P. 106 (a) (4) FOR JUDICIAL REVIEW OF THE EXERCISE OF DISCRETION ON THE PART OF THE GOVERNING BODY IN MAKING THE DETERMINATION OF BLIGHT. ANY SUCH ACTION SHALL BE GOVERNED IN ACCORDANCE

WITH THE PROCEDURES AND OTHER REQUIREMENTS SPECIFIED IN THE RULE; EXCEPT THAT THE GOVERNING BODY SHALL HAVE THE BURDEN OF PROVING THAT, IN MAKING ITS DETERMINATION OF BLIGHT, IT HAS NEITHER EXCEEDED ITS JURISDICTION NOR ABUSED ITS DISCRETION.

(c) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY DETERMINATION MADE BY THE GOVERNING BODY PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL BE DEEMED A LEGISLATIVE DETERMINATION AND SHALL NOT BE DEEMED A QUASI-JUDICIAL DETERMINATION.

(d) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, NO TRANSFER THAT SATISFIES THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION SHALL BE SUBJECT TO THE PROVISIONS OF THIS SUBSECTION (2), OR TO SUBSECTION (3), (4), OR PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION.

(3) ANY AUTHORITY SEEKING TO ACQUIRE PROPERTY BY EMINENT DOMAIN IN ACCORDANCE WITH THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION SHALL REIMBURSE THE OWNER OF THE PROPERTY FOR REASONABLE ATTORNEY FEES INCURRED BY THE OWNER IN CONNECTION WITH THE ACQUISITION WHERE THE OWNER IS THE PREVAILING PARTY ON A CHALLENGE BROUGHT UNDER PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION.

(4) (a) ANY AUTHORITY THAT EXERCISES THE POWER OF EMINENT DOMAIN TO TRANSFER ACQUIRED PROPERTY TO ANOTHER PRIVATE PARTY AS AUTHORIZED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION SHALL ADOPT RELOCATION ASSISTANCE AND LAND ACQUISITION POLICIES TO BENEFIT DISPLACED PERSONS THAT ARE CONSISTENT WITH THOSE SET FORTH IN ARTICLE 56 OF TITLE 24, C.R.S., TO THE EXTENT APPLICABLE TO THE FACTS OF EACH SPECIFIC PROPERTY, AND, AT THE TIME OF THE RELOCATION OF THE OWNER OR THE OCCUPANT, SHALL PROVIDE COMPENSATION OR OTHER FORMS OF ASSISTANCE TO ANY DISPLACED PERSON IN ACCORDANCE WITH SUCH POLICIES. IN ADDITION, IN THE CASE OF A BUSINESS CONCERN DISPLACED BY THE ACQUISITION OF PROPERTY BY EMINENT DOMAIN, THE AUTHORITY SHALL MAKE A BUSINESS INTERRUPTION PAYMENT TO THE BUSINESS CONCERN NOT TO EXCEED THE LESSER OF TEN THOUSAND DOLLARS OR ONE-FOURTH OF THE AVERAGE ANNUAL TAXABLE INCOME SHOWN ON THE THREE MOST RECENT FEDERAL INCOME TAX RETURNS OF THE BUSINESS CONCERN.

(b) IN ANY CASE WHERE THE ACQUISITION OF PROPERTY BY EMINENT DOMAIN BY AN AUTHORITY DISPLACES INDIVIDUALS, FAMILIES, OR BUSINESS CONCERNS, THE AUTHORITY SHALL MAKE REASONABLE EFFORTS TO RELOCATE SUCH INDIVIDUALS, FAMILIES, OR BUSINESS CONCERNS WITHIN THE URBAN RENEWAL AREA, WHERE SUCH RELOCATION IS CONSISTENT WITH THE USES PROVIDED IN THE URBAN RENEWAL PLAN, OR IN AREAS WITHIN REASONABLE PROXIMITY OF, OR COMPARABLE TO, THE ORIGINAL LOCATION OF SUCH INDIVIDUALS, FAMILIES, OR BUSINESS CONCERNS.

(5) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "BLIGHTED AREA" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 31-25-103 (2); EXCEPT THAT, FOR PURPOSES OF THIS SECTION ONLY, "BLIGHTED AREA" MEANS AN AREA THAT, IN ITS PRESENT CONDITION AND USE AND, BY REASON OF THE PRESENCE OF AT LEAST FIVE OF THE FACTORS SPECIFIED IN SECTION 31-25-103

(2) (a) TO (2) (1), SUBSTANTIALLY IMPAIRS OR ARRESTS THE SOUND GROWTH OF THE MUNICIPALITY, 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.

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

SECTION 2. 31-25-103, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

31-25-103. Definitions. As used in this part 1, unless the context otherwise requires:

(3.3) "BUSINESS CONCERN" HAS THE SAME MEANING AS "BUSINESS" AS SET FORTH IN SECTION 24-56-102 (1), C.R.S.

(3.5) "DISPLACED PERSON" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-56-102 (2), C.R.S., AND FOR PURPOSES OF THIS PART 1 SHALL ALSO INCLUDE ANY INDIVIDUAL, FAMILY, OR BUSINESS CONCERN DISPLACED BY THE ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY BY AN AUTHORITY.

(3.7) "GOVERNING BODY" MEANS THE GOVERNING BODY OF THE MUNICIPALITY WITHIN WHICH AN AUTHORITY HAS BEEN ESTABLISHED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS PART 1.

SECTION 3. Section 31-25-103 (2) (f), (2) (h), (2) (j), (2) (k), and (2) (l), Colorado Revised Statutes, are amended, and the said 31-25-103 (2), is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

31-25-103. Definitions. As used in this part 1, unless the context otherwise requires:

(2) "Blighted area" means an area that, in its present condition and use and, by reason of the presence of at least four of the following factors, substantially impairs or arrests the sound growth of the municipality, 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:

(f) Unusual topography OR INADEQUATE PUBLIC IMPROVEMENTS OR UTILITIES;

(h) The existence of conditions that endanger life or property by fire ~~and~~ OR other causes;

(j) Environmental contamination of buildings or property; OR

(k) ~~Inadequate public improvements or utilities; or~~

(k.5) THE EXISTENCE OF HEALTH, SAFETY, OR WELFARE FACTORS REQUIRING HIGH LEVELS OF MUNICIPAL SERVICES OR SUBSTANTIAL PHYSICAL UNDERUTILIZATION OR VACANCY OF SITES, BUILDINGS, OR OTHER IMPROVEMENTS;

(l) If there is no objection by the property owner or owners and the tenant or tenants of such owner or owners, if any, to the inclusion of such property in an urban renewal area, "blighted area" also means an area that, in its present condition and use and, by reason of the presence of any one of the factors specified in paragraphs (a) to ~~(k)~~ (k.5) of this subsection (2), substantially impairs or arrests the sound growth of the municipality, 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. For purposes of this paragraph (l), the fact that an owner of an interest in such property does not object to the inclusion of such property in the urban renewal area does not mean that the owner has waived any rights of such owner in connection with laws governing condemnation.

SECTION 4. 31-25-105 (1) (e), Colorado Revised Statutes, is amended to read:

31-25-105. Powers of an authority. (1) Every authority has all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part 1, including, but not limited to, the following powers in addition to others granted in this part 1:

(e) To enter, with the consent of the owner, upon any building or property in order to make surveys or appraisals and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted; to acquire any property by purchase, lease, option, gift, grant, bequest, devise, or otherwise to acquire any interest in property by condemnation, including a fee simple absolute title thereto, in the manner provided by the laws of this state for the exercise of the power of eminent domain by any other public body (and property already devoted to a public use may be acquired in a like manner except that no property belonging to the federal government or to a public body may be acquired without its consent); except that any acquisition of any interest in property by condemnation by an authority must be approved as part of an urban renewal plan or substantial modification thereof, as provided in section 31-25-107, by a majority vote of the governing body of the municipality in which such property is located, AND THE ACQUISITION OF PROPERTY BY CONDEMNATION BY AN AUTHORITY SHALL ALSO SATISFY THE REQUIREMENTS OF SECTION 31-25-105.5; to hold, improve, clear, or prepare for redevelopment any such property; to mortgage, pledge, hypothecate, or otherwise encumber or dispose of its property; and to insure or provide for the insurance of any property or operations of the authority against any risks or hazards; except that no provision of any other law with respect to the planning or undertaking of projects or the acquisition, clearance, or disposition of property by public bodies shall restrict an authority exercising powers under this part 1 in the exercise of such functions with respect to a project of such authority unless the general assembly specifically so states;

SECTION 5. 31-25-107 (3), Colorado Revised Statutes, is amended, and the said 31-25-107 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

31-25-107. Approval of urban renewal plans by the local governing body.
(3) (a) The governing body shall hold a public hearing on an urban renewal plan or substantial modification of an approved urban renewal plan no less than thirty days after public notice thereof by publication in a newspaper having a general circulation in the municipality. The notice shall describe the time, date, place, and purpose of the

hearing, shall generally identify the urban renewal area covered by the plan, and shall outline the general scope of the urban renewal project under consideration.

(b) WHERE AN AUTHORITY INTENDS TO ACQUIRE PRIVATE PROPERTY BY EMINENT DOMAIN WITHIN THE URBAN RENEWAL AREA TO BE SUBSEQUENTLY TRANSFERRED TO A PRIVATE PARTY IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 31-25-105.5 (2), THE GOVERNING BODY, PRIOR TO THE COMMENCEMENT OF THE ACQUISITION OF SUCH PROPERTY, SHALL FIRST HOLD A PUBLIC HEARING ON THE USE OF EMINENT DOMAIN AS A MEANS TO ACQUIRE SUCH PROPERTY AFTER WRITTEN NOTICE OF THE TIME, DATE, PLACE, AND PURPOSE OF THE HEARING HAS BEEN PROVIDED TO EACH OWNER OF PROPERTY WITHIN THE MEANING OF SECTION 31-25-105.5 THAT IS WITHIN THE URBAN RENEWAL AREA AT LEAST THIRTY DAYS PRIOR TO THE DATE OF THE HEARING. IN ORDER TO AUTHORIZE THE USE OF EMINENT DOMAIN AS A MEANS TO ACQUIRE PROPERTY, A GOVERNING BODY SHALL BASE ITS DECISION ON SUCH AUTHORIZATION ON A FINDING OF BLIGHTED OR SLUM CONDITIONS WITHOUT REGARD TO THE ECONOMIC PERFORMANCE OF THE PROPERTY TO BE ACQUIRED.

(4.5) IN ADDITION TO THE FINDINGS OTHERWISE REQUIRED TO BE MADE BY THE GOVERNING BODY PURSUANT TO SUBSECTION (4) OF THIS SECTION, WHERE AN URBAN RENEWAL PLAN SEEKS TO ACQUIRE PRIVATE PROPERTY BY EMINENT DOMAIN FOR SUBSEQUENT TRANSFER TO A PRIVATE PARTY PURSUANT TO SECTION 31-25-105.5 (2), THE GOVERNING BODY MAY APPROVE THE URBAN RENEWAL PLAN WHERE IT FINDS, IN CONNECTION WITH A HEARING SATISFYING THE REQUIREMENTS OF SUBSECTION (3) OF THIS SECTION, THAT THE URBAN RENEWAL PLAN HAS MET THE REQUIREMENTS OF SECTION 31-25-105.5 (2) AND THAT THE PRINCIPAL PUBLIC PURPOSE FOR ADOPTION OF THE URBAN RENEWAL PLAN IS TO FACILITATE REDEVELOPMENT IN ORDER TO ELIMINATE OR PREVENT THE SPREAD OF PHYSICALLY BLIGHTED OR SLUM AREAS.

SECTION 6. 38-1-101, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

38-1-101. Compensation - commission - jury - court - prohibition on elimination of nonconforming uses or nonconforming property design by amortization. (4) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(I) THE ACQUISITION BY CONDEMNATION BY A HOME RULE OR STATUTORY MUNICIPALITY OF PROPERTY OUTSIDE OF ITS TERRITORIAL BOUNDARIES INVOLVES MATTERS OF BOTH STATEWIDE AND LOCAL CONCERN BECAUSE SUCH ACQUISITION BY CONDEMNATION MAY INTERFERE WITH THE PLANS AND OPERATIONS OF OTHER LOCAL GOVERNMENTS AND OF THE STATE.

(II) IN ORDER THAT EACH LOCAL GOVERNMENT AND THE STATE ENJOY THE GREATEST FLEXIBILITY WITH RESPECT TO THE PLANNING AND DEVELOPMENT OF LAND WITHIN ITS TERRITORIAL BOUNDARIES, IT IS NECESSARY THAT THE POWERS OF A HOME RULE OR STATUTORY MUNICIPALITY TO ACQUIRE BY CONDEMNATION PROPERTY OUTSIDE OF ITS TERRITORIAL BOUNDARIES BE LIMITED TO THE NARROWEST EXTENT PERMITTED BY ARTICLE XX OF THE STATE CONSTITUTION.

(b) (I) EFFECTIVE JANUARY 1, 2004, NO HOME RULE OR STATUTORY MUNICIPALITY SHALL EITHER ACQUIRE BY CONDEMNATION PROPERTY LOCATED OUTSIDE OF ITS TERRITORIAL BOUNDARIES NOR PROVIDE ANY FUNDING, IN WHOLE OR IN PART, FOR

THE ACQUISITION BY CONDEMNATION BY ANY OTHER PUBLIC OR PRIVATE PARTY OF PROPERTY LOCATED OUTSIDE OF ITS TERRITORIAL BOUNDARIES; EXCEPT THAT THE REQUIREMENTS OF THIS PARAGRAPH (b) SHALL NOT APPLY TO CONDEMNATION FOR WATER WORKS, LIGHT PLANTS, POWER PLANTS, TRANSPORTATION SYSTEMS, HEATING PLANTS, ANY OTHER PUBLIC UTILITIES OR PUBLIC WORKS, OR FOR ANY PURPOSES NECESSARY FOR SUCH USES.

(II) EFFECTIVE JANUARY 1, 2004, NO HOME RULE OR STATUTORY MUNICIPALITY SHALL EITHER ACQUIRE BY CONDEMNATION PROPERTY LOCATED OUTSIDE OF ITS TERRITORIAL BOUNDARIES FOR THE PURPOSE OF PARKS, RECREATION, OPEN SPACE, CONSERVATION, PRESERVATION OF VIEWS OR SCENIC VISTAS, OR FOR SIMILAR PURPOSES, NOR PROVIDE ANY FUNDING, IN WHOLE OR IN PART, FOR THE ACQUISITION BY CONDEMNATION BY ANY OTHER PRIVATE OR PUBLIC PARTY OF PROPERTY LOCATED OUTSIDE OF ITS TERRITORIAL BOUNDARIES FOR THE PURPOSE OF PARKS, RECREATION, OPEN SPACE, CONSERVATION, PRESERVATION OF VIEWS OR SCENIC VISTAS, OR FOR SIMILAR PURPOSES EXCEPT WHERE THE MUNICIPALITY HAS OBTAINED THE CONSENT OF BOTH THE OWNER OF THE PROPERTY TO BE ACQUIRED BY CONDEMNATION AND THE GOVERNING BODY OF THE LOCAL GOVERNMENT IN WHICH TERRITORIAL BOUNDARIES THE PROPERTY IS LOCATED.

(c) EFFECTIVE JANUARY 1, 2004, THE PROVISIONS OF THIS SUBSECTION (4) SHALL SUPERSEDE ANY INCONSISTENT STATUTORY PROVISIONS WHETHER CONTAINED IN THIS TITLE OR ANY OTHER TITLE OF THE COLORADO REVISED STATUTES.

SECTION 7. Effective date - applicability. (1) Except as otherwise provided in subsection (2) or (3) of this section, this act shall apply to any property for which a blight determination is made on or after sixty days following the effective date of this act.

(2) The provisions of section 31-25-105.5 (4), Colorado Revised Statutes, in section 1 of this act shall apply to any property for which a condemnation proceeding is commenced on or after the effective date of this act.

(3) The provisions of section 38-1-101 (4) (b) and (4) (c), Colorado Revised Statutes, in section 6 of this act shall take effect January 1, 2004.

SECTION 8. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 4, 2004