

**SENATE BILL No. 312**

By Committee on Assessment and Taxation

3-14

1 AN ACT concerning the power of eminent domain; relating to the exercise  
2 thereof by certain public utilities; requiring approval of the board of  
3 county commissioners prior to the exercise thereof; amending K.S.A.  
4 26-101, 26-501b, 26-502 and 26-516 and repealing the existing  
5 sections.  
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 26-101 is hereby amended to read as follows: 26-  
9 101. Any corporation having the right of eminent domain and any  
10 partnership holding a certificate of convenience issued by the state  
11 corporation commission and having the right of eminent domain, shall  
12 exercise such right in the manner set forth in K.S.A. 26-501 to 26-516,  
13 ~~inclusive et seq., and amendments thereto.~~

14 Sec. 2. K.S.A. 26-501b is hereby amended to read as follows: 26-  
15 501b. ~~On and after July 1, 2007;~~(a) The taking of private property by  
16 eminent domain for the purpose of selling, leasing, or otherwise  
17 transferring such property to any private entity is authorized if the taking  
18 is:

19 (a)(1) By the Kansas department of transportation or a municipality  
20 and the property is deemed excess real property that was taken lawfully  
21 and incidental to the acquisition of right-of-way for a public road, bridge  
22 or public improvement project including, but not limited to a public  
23 building, park, recreation facility, water supply project, wastewater and  
24 waste disposal project, storm water project and flood control and drainage  
25 project;

26 (b)(2) by any public utility, as defined in K.S.A. 66-104, and  
27 amendments thereto, gas gathering service, as defined in K.S.A. 55-1,101,  
28 and amendments thereto, ~~pipe-line~~ pipeline companies, railroads and all  
29 persons and associations of persons, whether incorporated or not,  
30 operating such agencies for public use in the conveyance of persons or  
31 property within this state, but only to the extent such property is used for  
32 the operation of facilities necessary for the provision of services;

33 (c)(3) by any municipality when the private property owner has  
34 acquiesced in writing to the taking;

35 (d)(4) by any municipality for the purpose of acquiring property  
36 ~~which~~ that has defective or unusual conditions of title including, but not

1 limited to, clouded or defective title or unknown ownership interests in the  
2 property;

3 ~~(e)~~(5) by any municipality for the purpose of acquiring property  
4 ~~which~~ that is unsafe for occupation by humans under the building codes of  
5 the jurisdiction where the structure is situated; or

6 ~~(f)~~(6) expressly authorized by the legislature ~~on or after July 1, 2007,~~  
7 by enactment of law that identifies the specific tract or tracts to be taken. If  
8 the legislature authorizes eminent domain for private economic  
9 development purposes, the legislature shall consider requiring  
10 compensation of at least 200% of fair market value to property owners.

11 ~~(g)~~(b) (1) *No electric or transmission-only public utility holding a*  
12 *certificate of convenience and necessity issued by the state corporation*  
13 *commission shall exercise the power of eminent domain pursuant to K.S.A.*  
14 *17-618 or 26-501 et seq., and amendments thereto, unless the board of*  
15 *county commissioners where real property is located that may be the*  
16 *subject of an eminent domain proceeding has adopted a resolution*  
17 *approving such taking by such public utility.*

18 (2) *This subsection shall not apply to the governing body of any city*  
19 *or the board of public utilities of any city owning or operating an electric*  
20 *utility.*

21 (c) This section shall be a part of and supplemental to the eminent  
22 domain procedure act.

23 Sec. 3. K.S.A. 26-502 is hereby amended to read as follows: 26-502.

24 (a) A petition shall include allegations of:

25 (1) The authority for and the purpose of the taking;

26 (2) a description of each lot, parcel or tract of land and the nature of  
27 the interest to be taken;

28 (3) ~~insofar as their~~ *to the extent such* interests are to be taken:

29 ~~(a)~~(A) the name of any owner and all lienholders of record; and

30 ~~(b)~~(B) the name of any party in possession; and

31 (4) *if required under K.S.A. 26-501b, and amendments thereto, the*  
32 *approval of such taking by the appropriate board of county commissioners.*

33 (b) Such petition shall be verified by affidavit. Upon the filing of  
34 such petition the court by order shall fix the time when ~~the same will be~~  
35 ~~taken up~~ *such petition shall be heard.* No defect in form ~~which that~~ does  
36 not impair substantial rights of the parties shall invalidate any proceeding.

37 Sec. 4. K.S.A. 26-516 is hereby amended to read as follows: 26-516.

38 ~~This act~~ *The provisions of K.S.A. 26-501 through 26-519, and amendments*  
39 *thereto, shall be known and may be cited as the "eminent domain*  
40 *procedure act."*

41 Sec. 5. K.S.A. 26-101, 26-501b, 26-502 and 26-516 are hereby  
42 repealed.

43 Sec. 6. This act shall take effect and be in force from and after its

- 1 publication in the statute book.