

Overview of LD 4111.

- Limits the circumstances under which a housing authority may acquire real property and subsequently transfer it to a private entity.
- The measure also codifies the concept that the acquisition of private property is not for a public use if it:
 - (i) is made with the intent of making the property available for ownership or use by a private entity unless any benefits that will accrue to the private entity as a result of its ownership or use of the property are merely incidental when compared to the benefits that will accrue to the public from the abatement of the slums, conditions of blight, or other public use for which a housing authority is expressly authorized by this chapter to acquire property, or
 - (ii) is otherwise predominantly for a private purpose.
- A housing authority is prohibited from acquiring property through condemnation without the owner's consent if the authority intends that the property will be subsequently transferred to a private entity unless the authority determines that
 - (i) the property is blighted or is located in a blighted area,
 - (ii) if applicable, a redevelopment project or conservation project for which the property is being acquired shall be commenced no later than 7 years from the date the blight determination is made, and
 - (iii) the project for which the property is being condemned is not viable without the parcel at issue.
- Property is "blighted" or is in a "blighted area" if the property, or the area in which it is located, based on present condition and use, is detrimental to the safety, health, morals or welfare of the community by reason of the presence of at least 5 of 10 enumerated factors, but if the owner does not object to the property's acquisition for a project, property is "blighted" or is in a "blighted area" under the current definition of blight, which requires that the property, or the area in which it is located, includes buildings or improvements that, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement of design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals or welfare of the community.
- Alternatively, property that a housing authority acquires after July 1, 2005, without the intent that it be subsequently transferred to a private entity shall not be subsequently conveyed to a private entity unless, in addition to the requirements imposed if there was a pre-acquisition intent to convey it to a private entity, the authority determines that the property is no longer necessary for the public use for which it was originally acquired and first offers to sell the

property to the owner from whom it was acquired at a price that does not exceed that paid by the authority and the owner declines to buy it, or the owner requested that the authority acquire the property in addition to other property because the failure to acquire it would leave the owner with an uneconomic remnant.

- Additionally, before conveying blighted property to a private entity, the authority must invite proposals for redevelopment or conservation of the property from all property owners, residents, and owners of businesses located in the project area.
- If a property owner challenges the authority's determinations that property is blighted, that the project will commence within 7 years, or that the project is not viable without the parcel, it may bring an action for judicial review of such determinations.
 - In such actions the authority will have the burden of proving the matters at issue by clear and convincing evidence, and the authority's determinations on the issues are not entitled to a presumption of validity.
- The measure also provides that a condemnation of property by a county, city or town for housing and redevelopment purposes is not for a public use if such taking, if made by a housing authority, would be prohibited by the provisions of this measure.