Issue	HR 4128	MADA Draft (10/27/05)
Prohibition on Use of Eminent Domain (ED)	Can not use ED for economic development of property if the state or local entity receives Federal economic development funds during any fiscal year in which it does so.	ED can only be used by state or local entity for a public use when the user establishes "clear and convincing" evidence that the use of ED is necessary for a public use and just compensation is paid.
Definition of terms: Economic development; public use	Economic development means taking private property, without the consent of the owner, and conveying or leasing the property from one private entity to another private entity for commercial business, or to increase the tax base, tax revenue, employment, or general economic health	Public use means land owned by the public for public use, land acquired to remove a public nuisance, reduce abandoned property or mitigate a blighted area. The public benefits of economic development including an increase in tax base, tax revenue, employment, or general economic health, shall not by themselves constitute a public use.
Status of definition	NA	The definition in the draft would replace the definition of public use, public benefit and public purpose pertaining to eminent domain in chapters 117, 469 and other statutory provisions.
Exceptions to Economic development definition or public use.	Economic development does not include (a) conveying public property to public ownership, such as for a road, hospital, airport, or military base; to an entity, such as a common carrier, that makes the property available to the general public as of right, such as a railroad or public facility; for use as a road or other right of way or means, open to the public for transportation; for use as an aqueduct, flood control facility, pipeline or similar use. (b) removing harmful uses of land provided such uses constitute an	No specific exemptions.

	immediate to public health and safety. (c)private business that occupies or leases an “incidental’ part of public property or public facility. (Example –retail establishment on the ground floor of a public building). (d) acquiring abandoned property; (e) clearing defective chains of title (f) taking private property for use by a public utility and (G) brownfield redevelopment under federal law.	
Attorneys’ Fees	The court can award a prevailing plaintiff a reasonable attorneys’ fee as part of the costs of the eminent domain including expert fees.	Court shall award reasonable attorney fees and costs if the final judgment or award for damages exceeds the last written offer by the condemning authority prior to the filing of the petition or the amount deposited with the court by 20% or more. The court can award attorney fees and costs if it determines that the taking is not a public use or is unlawful. The sate and local governments can not receive attorney fees or expenses in an eminent domain proceeding from the property owner.
Lead Federal/State Agency and its Role	Attorney General (AG). The AG must do the following: - within 30 days of passage, convey a copy of the Act and property owner rights under this bill to each state. - Within 120 days of passage compile a list of federal laws under which federal economic development funds are distributed	No State agency identified.

	- Annually update the list of applicable laws and maintain a website for the list. - Notice to property owners within thirty days of passage via the Federal Register and website that the Act has passed.	
Definition of Blight	NA	Blighted area is defined by a four factor definition that is characterized by unsanitary or unsafe conditions; high crime caused in part by the area's deteriorated condition; is zoned for urban use and is served by utilities; and 70% of the area is occupied by buildings or public improvements. In addition to the four factors one of the following must be "clearly and convincingly" present in the area. (1) physical dilapidation that makes rehabilitation not feasible (2) environmental damage such as hazardous or solid waste (3) all of the buildings in the area have defective titles so that the buildings are unmarketable.
Limitation on Blight	NA	If a developer contributed to one of the four factors that factor can not be used in determining blight.
Status of blighted Area Definition	NA	The definition replaces all definitions of blight, blighted area, marginal property, redevelopment area, development district, redevelopment district, or renewal or renovation district pertaining to eminent domain in chapter 117 and 469 and any other provisions of law.
Amount of Compensation	NA	The amount of damages paid must (1) exceed the

		property's valuation for tax purposes (2) be sufficient in the case of a house being taken, be at least sufficient for a homeowner to purchase a similar house of equivalent size in the community and (3) not be less than the condemning authority's deposit under section 117.042.
Public Hearing	NA	The elected body of the local government must hold a public hearing on the proposed use of eminent domain. The hearing must be recorded and notice given in the official publication as well as to the owner of the property proposed to be acquired. At the public hearing the elected body by a majority vote authorize the use of eminent domain
Compensation for Loss of Going Concern	NA	The current eminent domain law is amended to authorize payment for loss of a going concern (business). Exceptions are provided but they must be proven "by clear convincing evidence"