

**SB0235**



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**SB0235**

Introduced 2/2/2005, by Sen. James F. Clayborne, Jr.

**SYNOPSIS AS INTRODUCED:**

735 ILCS 5/7-103.70

Amends the Code of Civil Procedure. Provides policies for quick-take proceedings by the Southwestern Illinois Development Authority and extends its quick-take authority until August 30, 2007.

LRB094 09018 LCB 39239 b

**A BILL FOR**

1 AN ACT concerning quick-takes.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by  
5 changing Section 7-103.70 as follows:

6 (735 ILCS 5/7-103.70)

7 Sec. 7-103.70. Quick-take; Southwestern Illinois  
8 Development Authority (SWIDA).

9 (a) Quick-take proceedings under Section 7-103 may be used  
10 for a period from August 30, ~~2005~~ 2003 to August 30, 2007,  
11 subject to the written approval of the Secretary of the  
12 Illinois Department of Transportation based upon the overall  
13 economic development and fiscal plans and needs of the State of  
14 Illinois, ~~2005~~ by the Southwestern Illinois Development  
15 Authority pursuant to the Southwestern Illinois Development  
16 Authority Act for a project as defined in Section 3 of that  
17 Act.

18 (b) Any proposed project invoking the quick-take process  
19 must comply with Section 7-103 of the Code of Civil Procedure  
20 and the mission statement of SWIDA as adopted by the Board on  
21 August 17, 1989. The project must meet stated and specific  
22 economic development goals resulting in identifiable business  
23 location, business retention, substantial job creation or  
24 retention, or substantial capital development within the  
25 jurisdictional boundaries of SWIDA.

26 (c) Quick-take shall be undertaken by SWIDA only as a last  
27 resort and only after efforts to purchase property in  
28 accordance with the Illinois Constitution and the Code of Civil  
29 Procedure have been satisfied in a manner that conforms with  
30 the referenced laws. At a minimum, any motion for taking of  
31 property approved by the SWIDA Board shall include:

32 (1) an accurate description of the property to which

1 the motion relates and the estate or interest sought to be  
2 acquired therein;

3 (2) a formally adopted schedule or plan of operation  
4 for the execution of the project;

5 (3) the situation of the property to which the motion  
6 relates, with respect to the schedule or plan;

7 (4) the necessity for taking the property in the manner  
8 requested in the motion; and

9 (5) if the property to be taken is owned, leased,  
10 controlled or operated and used by, or necessary for the  
11 actual operation of, any interstate common carrier or other  
12 public utility subject to the jurisdiction of the Illinois  
13 Commerce Commission, a statement to the effect that the  
14 approval of the proposed taking has been secured from the  
15 Commission, and shall attach a certified copy of the order  
16 of the Commission granting the approval to the motion. If  
17 the schedule or plan of operation is not set forth fully in  
18 the motion, a copy of the schedule or plan shall be  
19 attached to the motion.

20 (d) SWIDA may invoke quick-take directly or on behalf of  
21 another unit of government or a private party. In all cases,  
22 the legislative requirements and procedures referenced in  
23 subsection (b) of this Section must be satisfied. If title may  
24 be subsequently transferred to a private party by a unit of  
25 government, the unit of government must submit to SWIDA a copy  
26 of its agreement with the private party and must certify that  
27 the agreement was entered into pursuant to all applicable  
28 local, State, and federal laws. Additional requirements and  
29 conditions that are deemed appropriate by the SWIDA Board of  
30 Directors may be incorporated in an Intergovernmental  
31 Agreement that must be executed between SWIDA and the unit of  
32 government as a prerequisite to SWIDA's use of quick-take  
33 powers to assist a unit of government.

34 (e) SWIDA shall:

35 (1) only utilize its quick-take powers to promote  
36 development in Clinton, Madison, and St. Clair counties and

1 to assist in the development, construction, and  
2 acquisition of industrial, commercial, housing,  
3 residential, or local government "projects" as that term is  
4 used in subsection (n) of Section 3 of the Southwestern  
5 Illinois Development Authority Act;

6 (2) require verification that the project depends upon  
7 the successful land acquisition proposed and that the  
8 exercise of quick-take authority is necessary for the  
9 successful completion of the project;

10 (3) require that a Board-approved intergovernmental  
11 agreement be entered into between the unit or units of  
12 government and SWIDA prior to the exercise of any  
13 quick-take powers by SWIDA to assist any other unit of  
14 government. The intergovernmental agreement shall provide,  
15 among other things, (i) the obligation by the unit of  
16 government to pay all the costs and expenses incurred by  
17 SWIDA in acquiring title to the property through the use of  
18 its eminent domain and quick-take authority and (ii) the  
19 indemnification of SWIDA by the unit of government in  
20 connection with the acquisition. The intergovernmental  
21 agreement must also provide for the payment by the unit of  
22 government of an administrative fee in accordance with the  
23 established fee schedule;

24 (4) hold a public hearing prior to Board action on any  
25 quick-take application;

26 (5) identify any and all sources for the statutory  
27 authority for the taking;

28 (6) identify the specific benefits of the proposed  
29 project to the public, such as elimination of blight or  
30 deterioration, revitalization of the economy, creation of  
31 jobs, or increase in tax base, and be certain to back up  
32 these goals with studies, data, and the dissemination to  
33 the public of the supporting information;

34 (7) verify that the developer has engaged in good faith  
35 negotiations with the property owner for the purchase of  
36 the land;

1           (8) be prepared to show and make relevant findings to  
2 the effect that the development project could not proceed  
3 without the governmental body's intervention and  
4 assistance in property acquisition or assembly;

5           (9) consider conducting a public hearing on the project  
6 even if one is not required by law, but be certain that the  
7 project's proponents are well-equipped with demonstrable  
8 specifics about the need for the project, the need for a  
9 public incentive, and the public benefit to be derived;

10          (10) verify that the developer is creditworthy but  
11 still in need of some public incentive;

12          (11) be prepared to respond to an objector's claim that  
13 the developer has the independent means both financially  
14 and strategically to achieve its goal through  
15 implementation of a feasible and economic alternative  
16 plan;

17          (12) if the project is an expansion of an existing use  
18 or addition to an existing facility, be able to support the  
19 contentions of the detractors of the plan that the  
20 expansion or addition is solely for the benefit of the  
21 developer and that the original project cured the problems  
22 it was intended to solve;

23          (13) consider whether it can be shown, or if it is  
24 necessary or advisable, that the existing uses of the  
25 property proposed for taking are not consistent with the  
26 development plans for the area and that the property is not  
27 contributing any benefit or any significant benefit to the  
28 community; and

29          (14) notify each State Senator and State  
30 Representative whose district is impacted by the intention  
31 to acquire property by quick-take process. The  
32 notification shall include:

33           (A) a map of the area in which the property to be  
34 acquired is located, showing the location of the  
35 property;

36           (B) photographs of the property;

1           (C) an appraisal of the property by a real estate  
2           appraiser who is certified or licensed under the Real  
3           Estate Appraiser Licensing Act of 2002;

4           (D) a copy of the resolution adopted by the unit of  
5           local government;

6           (E) documentation of the public purpose for which  
7           quick-take is sought to acquire the property; and

8           (F) a copy of each notice sent to an owner of an  
9           interest in the property.

10          (f) SWIDA shall not enter into an agreement with either a  
11          private party or a unit of government unless and until the  
12          governmental authority of the municipality within which SWIDA  
13          would exercise its quick-take powers has authorized SWIDA to  
14          use this power or unless and until the county board of the  
15          county within which SWIDA would exercise the powers has so  
16          authorized SWIDA.

17          (g) The Board of SWIDA shall require a project developer,  
18          if a private party, to enter into an agreement with SWIDA in  
19          writing in advance of SWIDA's commencement of quick-take  
20          proceedings. This agreement shall set forth the respective  
21          obligations of SWIDA and the private party with respect to the  
22          use by SWIDA of its quick-take powers and shall provide, among  
23          other things, for (i) the obligation by the project developer  
24          to pay all the costs and expenses incurred by SWIDA in  
25          acquiring title to the property through the use of its eminent  
26          domain and quick-take authority and (ii) the indemnification of  
27          SWIDA by the project developer in connection with the  
28          acquisition. The agreement must also provide for the payment by  
29          the project developer of an administrative fee in accordance  
30          with the established fee schedule.

31          (h) SWIDA may exercise its quick-take authority through an  
32          agent who shall be selected based upon knowledge and expertise  
33          in land acquisition procedures or relocation procedures. The  
34          agent may be a firm, a person, or another governmental agency.  
35          It shall be the responsibility of the project developer or unit  
36          of government to pay the cost for the agent who will be charged

1 with fulfilling the requirements of all applicable laws as they  
2 apply to the project. The cost of the agent and any additional  
3 costs incurred by SWIDA, its Board, its employees, or its  
4 attorney shall be the responsibility of the project developer  
5 or unit of government to which SWIDA is lending its assistance.

6 (Source: P.A. 93-602, eff. 11-18-03.)