**Code of Civil Procedure provisions**

**Code of Civil Procedure § 1230.010**. Short title

This title shall be known and may be cited as the Eminent Domain Law.

**Code of Civil Procedure § 1240.010**. Exercise of power for public use

The power of eminent domain may be exercised to acquire property only for a public use. Where the Legislature provides by statute that a use, purpose, object, or function is one for which the power of eminent domain may be exercised, such action is deemed to be a declaration by the Legislature that such use, purpose, object, or function is a public use.

**Code of Civil Procedure § 1240.110.** Acquisition of certain interests in property; enumeration; restriction

(a) Except to the extent limited by statute, any person authorized to acquire property for a particular use by eminent domain may exercise the power of eminent domain to acquire any interest in property necessary for that use including, but not limited to, submerged lands, rights of any nature in water, subsurface rights, airspace rights, flowage or flooding easements, aircraft noise or operation easements, right of temporary occupancy, public utility facilities and franchises, and franchises to collect tolls on a bridge or highway.

(b) Where a statute authorizes the acquisition by eminent domain only of specified interests in or types of property, this section does not expand the scope of the authority so granted.

**Code of Civil Procedure § 1240.510**. Authority; reference in complaint and resolution

Any person authorized to acquire property for a particular use by eminent domain may exercise the power of eminent domain to acquire for that use property appropriated to public use if the proposed use will not unreasonably interfere with or impair the continuance of the public use as it then exists or may reasonably be expected to exist in the future. Where property is sought to be acquired pursuant to this section, the complaint, and the resolution of necessity if one is required, shall refer specifically to this section.

**Code of Civil Procedure § 1240.610**. Authority; reference in complaint and resolution

Any person authorized to acquire property for a particular use by eminent domain may exercise the power of eminent domain to acquire for that use property appropriated to public use if the use for which the property is sought to be taken is a more necessary public use than the use to which the property is appropriated. Where property is sought to be acquired pursuant to this section, the complaint, and the resolution of necessity if one is required, shall refer specifically to this section.

**Code of Civil Procedure § 1245.235**. Notice and hearing; contents; conduct

(a) The governing body of the public entity may adopt a resolution of necessity only after the governing body has given each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll notice and a reasonable opportunity to appear and be heard on the matters referred to in [Section 1240.030](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000201&cite=CACPS1240.030&originatingDoc=N8171C4C08D7011D8A785F88B1CCF3D4B&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.UserEnteredCitation)).

(b) The notice required by subdivision (a) shall be sent by first-class mail to each person described in subdivision (a) and shall state all of the following:

(1) The intent of the governing body to adopt the resolution.

(2) The right of such person to appear and be heard on the matters referred to in [Section 1240.030](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000201&cite=CACPS1240.030&originatingDoc=N8171C4C08D7011D8A785F88B1CCF3D4B&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.UserEnteredCitation)).

(3) Failure to file a written request to appear and be heard within 15 days after the notice was mailed will result in waiver of the right to appear and be heard.

(c) The governing body, or a committee of not less than 11 members thereof designated by the governing body if the governing body has more than 40 members, shall hold a hearing at which all persons described in subdivision (a) who filed a written request within the time specified in the notice may appear and be heard on the matters referred to in [Section 1240.030](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000201&cite=CACPS1240.030&originatingDoc=N8171C4C08D7011D8A785F88B1CCF3D4B&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.UserEnteredCitation)). Such a committee shall be reasonably representative of the various geographical areas within the public entity's jurisdiction. The governing body need not give an opportunity to appear and be heard to any person who fails to so file a written request within the time specified in the notice. If a committee is designated by the governing body pursuant to this subdivision to hold the hearing, the committee, subsequent to the hearing, shall provide the governing body and any person described in subdivision (a) who has appeared before the committee with a written summary of the hearing and a written recommendation as to whether to adopt the resolution of necessity. Any person described in subdivision (a) who has appeared before the committee shall also be given an opportunity to appear and be heard before the governing body on the matters referred to in [Section 1240.030](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000201&cite=CACPS1240.030&originatingDoc=N8171C4C08D7011D8A785F88B1CCF3D4B&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.UserEnteredCitation)).

(d) Notwithstanding subdivision (b), the governing body may satisfy the requirements of this section through any other procedure that has given each person described in subdivision (a) reasonable written personal notice and a reasonable opportunity to appear and be heard on the matters referred to in [Section 1240.030](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000201&cite=CACPS1240.030&originatingDoc=N8171C4C08D7011D8A785F88B1CCF3D4B&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.UserEnteredCitation)).

**Code of Civil Procedure § 1245.240**. Vote required for adoption

Unless a greater vote is required by statute, charter, or ordinance, the resolution shall be adopted by a vote of two-thirds of all the members of the governing body of the public entity.