
JOINT RESOLUTION

JOINT RESOLUTION 2005

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A JOINT RESOLUTION proposing an amendment to the state constitution of 1963, by amending section 2 of article X, to restrict the power of state or local government to take private property by eminent domain for certain private purposes.

Resolved by the Senate and House of Representatives of the state of Michigan, That the following amendment to the state constitution of 1963, to restrict the power of state or local government to take private property by eminent domain for certain private purposes, is proposed, agreed to, and submitted to the people of the state:

ARTICLE X

Sec. 2. Private property shall not be taken for public use without just compensation therefore being first made or secured in a manner prescribed by law. If private property consisting of an individual's principal residence is taken for public use, the amount of compensation made and determined for that taking shall be not less than 125% of that property's fair market value, in addition to any other reimbursement allowed by law. Compensation shall be determined in proceedings in a court of record.

"Public use" does not include the taking of private property for transfer to a private entity for the purpose of economic development or enhancement of tax revenues. Private property otherwise may be taken for reasons of public use as that term is understood on the effective date of the amendment to this constitution that added this paragraph.

In a condemnation action, the burden of proof is on the condemning authority to demonstrate, by the preponderance of the evidence, that the taking of a private property is for a public use, unless the condemnation action involves a taking for the eradication of blight, in which case the burden of proof is on the condemning authority to demonstrate, by clear and convincing evidence, that the taking of that property is for a public use.

Any existing right, grant, or benefit afforded to property owners as of November 1, 2005, whether provided by this section, by statute, or otherwise, shall be preserved and shall not be abrogated or impaired by the constitutional amendment that added this paragraph.

Resolved further, That the foregoing amendment shall be submitted to the people of the state at the next general election in the manner provided by law.

Compiler's note: Senate Joint Resolution E, set out above, was agreed to by the Senate on December 13, 2005, and by the House of Representatives on December 13, 2005. The joint resolution was ordered enrolled and was filed with the Secretary of State on December 15, 2005.