Proposition 99
Eminent Domain. Acquisition of Owner-Occupied Residence. Constitutional Amendment.

Background

California state and local governments frequently acquire private property to build public facilities (such as roads, parks, and schools) or to promote public objectives (such as economic development and affordable housing).

Most of the time, government buys property from willing sellers. Sometimes, however, property owners do not want to sell their property or do not agree on a sales price. In these cases, California law allows government to take property from a private owner provided that government:

- Uses the property for a "public use" (a term that has been broadly interpreted to mean a variety of public purposes).
- Pays the property owner "just compensation" (generally, the property's fair market value) and relocation costs (including certain business losses).

This government power to take property for a public use is called "eminent domain." The nearby box provides additional information regarding the terms public use, just compensation, and relocation costs.

Government's Authority to Take Property by Eminent Domain

Government may use eminent domain to take property for a public use if it pays just compensation and relocation costs.

What Is a Public Use?

Common examples of public use include providing new schools, roads, government buildings, parks, and public utility facilities. The term public use also includes broad public objectives, such as economic development, eliminating urban blight and public nuisances, and public ownership of utility services. The following activities have been considered a public use:

- Promoting downtown redevelopment by transferring property to other owners to construct new stores, hotels, and other businesses.
- Reducing urban blight and crime by transferring substandard apartments in a high-crime area to a nonprofit housing organization to renovate and manage.
- Securing public control of utility services by acquiring private water and other utility systems and placing them under government ownership.

What Are Just Compensation and Relocation Costs?

Just compensation includes (1) the fair market value of the property taken and (2) any reduction in value of the remaining property when only part of a parcel is taken. In addition to the payment of just compensation, California law requires governments to pay property owners for certain other expenses and losses associated with the transfer of property ownership.

Proposal

This constitutional amendment limits state and local government's use of eminent domain in certain circumstances. Specifically, the measure prohibits government from using eminent domain to take a single-family home (including a condominium) for the purpose of transferring it to another private party (such as a person, business, or association).

This prohibition, however, would not apply if government was taking the home to:

- Protect public health and safety.
- Prevent serious, repeated criminal activity.
- Respond to an emergency.
- Remedy environmental contamination that posed a threat to public health and safety.
- Use the property for a public work, such as a toll road or airport operated by a private party.

In addition, the prohibition would not apply if the property owner did not live in the home or had lived there for less than a year.

Related Measure on Ballot. This ballot contains two measures related to eminent domain: Proposition 99 (this measure) and Proposition 98. If this measure were approved by more votes than Proposition 98, this measure provides that the provisions of Proposition 98 would not take effect.

Fiscal Effects

Under current law and practice, government seldom uses eminent domain to take single-family homes. Even when it does so, the acquisition often is for a purpose that is permitted under the measure (such as construction of a road or school). Accordingly, this measure would not change significantly current government land acquisition practices.

In a very limited number of cases, however, this measure might result in government:

- Savings—because government could not acquire a home that the owner did not wish to sell.
- Costs—because government might pay more to buy a home than would have been the case if it could have taken the home using eminent domain.

The net fiscal effect of such actions would not be significant.