

# Limited Eminent Domain

An amendment to the Constitution of the State of Iowa and enacting legislation to be approved by the Iowa General Assembly.

# **Part I: The Limited Eminent Domain Amendment**

**A Joint Resolution proposing an amendment to the Constitution of the State of Iowa  
limiting the use of eminent domain.**

**BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:**

**Section 1.** The following amendment to the Constitution of the State of Iowa is proposed:

- 1 Section 18A. Limitation on Eminent Domain.
- 2 1. Private property shall not be taken by the State of Iowa or any political subdivision
- 3 thereof except for critical infrastructure needs that cannot reasonably be located
- 4 elsewhere.
- 5 2. Critical infrastructure needs are defined as facilities or assets necessary to ensure
- 6 public health, safety, and security. Economic development shall not constitute a
- 7 critical infrastructure need.
- 8 3. Any eminent domain claim by the State of Iowa must be approved by a two-thirds
- 9 majority vote in both houses of the General Assembly.
- 10 4. Upon request of the property owner, any eminent domain claim shall be subject to
- 11 automatic judicial review.
- 12 5. If a petition is presented bearing signatures from the lesser of 500 eligible electors or
- 13 10 percent of voters in the most recent election conducted by the jurisdiction, the
- 14 eminent domain claim shall be submitted to a public vote.
- 15 6. Compensation for any approved eminent domain claim shall be 150 percent of fair
- 16 market value.

## **Part II: Limited Eminent Domain Enabling Act**

**AN ACT to implement Article I, Section 18A of the Constitution of Iowa.**

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:**

1 Section 1. NEW SECTION. 6A.1A Definitions.

- 2 1. "Critical infrastructure" means facilities or assets necessary to ensure public health,  
3 safety, and security, including hospitals, emergency response centers, water  
4 treatment facilities, power generation plants, and essential transportation corridors.  
5 2. "Fair market value" means the price a willing buyer would pay a willing seller in an  
6 arms-length transaction, determined by licensed appraisers.

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8 Sec. 2. NEW SECTION. 6A.1B Petition Process.

- 9 1. Eligible electors may file a petition with the secretary of state or local election  
10 authority.  
11 2. Verification of signatures shall be completed within thirty days.  
12 3. If valid, the eminent domain claim shall be placed on the ballot at the next  
13 scheduled election or at a special election called within ninety days.

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15 Sec. 3. NEW SECTION. 6A.1C Judicial Review.

- 16 1. Property owners may request judicial review in district court within thirty days of  
17 notice of condemnation.  
18 2. Courts shall review whether the claim meets the definition of critical infrastructure  
19 and complies with constitutional requirements.

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21 Sec. 4. NEW SECTION. 6A.1D Compensation.

- 22 1. Condemnation commissions shall determine fair market value.  
23 2. The condemning authority shall pay one hundred fifty percent of that value plus  
24 relocation costs.  
25 3. Payment must be made prior to transfer of title.

26

27 Sec. 5. NEW SECTION. 6A.1E Legislative Approval.

- 28 No eminent domain claim by the state shall proceed without a two-thirds majority vote  
29 in both houses of the general assembly.

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31 Sec. 6. EFFECTIVE DATE.

- 32 This Act shall take effect upon ratification of the constitutional amendment by the  
33 people of Iowa.

## **Part III: Draft Ballot Language**

## **Constitutional Amendment Question**

*Shall the following amendment to the Constitution of the State of Iowa be adopted?*

### **Summary:**

This amendment restricts the use of eminent domain by the State of Iowa and its political subdivisions. Property may only be taken for *critical infrastructure needs* that cannot reasonably be located elsewhere. Critical infrastructure is defined as facilities or assets necessary to ensure public health, safety, and security. Economic development is not considered a critical infrastructure need.

The amendment requires:

- Approval of any state eminent domain claim by a two-thirds majority in both houses of the General Assembly.
- Automatic judicial review of eminent domain claims upon request of the property owner.
- Submission of an eminent domain claim to a public vote if a petition is filed with signatures from the lesser of 500 eligible electors or 10% of voters in the most recent election for that jurisdiction.
- Compensation of 150% of fair market value for property taken under eminent domain.

### **Effect of Adoption:**

If adopted, eminent domain in Iowa will be limited to critical infrastructure projects, subject to legislative supermajority approval, judicial oversight, potential voter referendum, and enhanced compensation for property owners.

### **Effect of Rejection:**

If rejected, the current constitutional and statutory provisions governing eminent domain will remain in effect, allowing property to be taken for public use with compensation at fair market value under existing law.

### **Ballot Question:**

*Shall the Constitution of the State of Iowa be amended to limit the use of eminent domain to critical infrastructure needs that cannot reasonably be located elsewhere, require two-thirds legislative approval, provide for judicial review and petition-triggered public votes, and mandate compensation at 150% of fair market value?*

**Yes** ☐

**No** ☐

## **Part IV: Explanatory Statement**



This proposed amendment to the Constitution of the State of Iowa changes the rules governing the use of eminent domain. Eminent domain is the power of government to take private property for public use, with payment of compensation to the property owner. Under current law, eminent domain may be used for a variety of public purposes, including economic development projects, so long as compensation is provided at fair market value. The proposed amendment limits eminent domain to *critical infrastructure needs* that cannot reasonably be located elsewhere. Critical infrastructure is defined as facilities or assets necessary to protect public health, safety, and security. Economic development projects are specifically excluded from this definition.

The amendment also adds new requirements:

- Any eminent domain claim by the State of Iowa must be approved by a two-thirds majority in both houses of the General Assembly.
- Property owners may request automatic judicial review of any eminent domain claim.
- If a petition is filed with signatures from the lesser of 500 eligible electors or 10% of voters in the most recent election for the jurisdiction, the eminent domain claim must be submitted to a public vote.
- Property owners whose land is taken under eminent domain must receive 150% of fair market value as compensation.

If adopted, this amendment will restrict eminent domain to essential public safety and infrastructure projects, increase legislative and judicial oversight, allow for voter participation through petition, and provide enhanced compensation to property owners.

If rejected, eminent domain will continue to operate under current constitutional and statutory provisions, allowing property to be taken for public use with compensation at fair market value.