



### **Proposition 98- Eminent Domain. Limits on Government Authority. Initiative Constitutional Amendment**

**Summary:** Proposition 98 bars state and local governments from taking private property for private uses. The constitutional amendment is designed to provide California property owners with more property rights protection and prohibits rent control by limiting the price a private owner may charge another person to purchase, occupy or use his or her real property. The initiative grandfathers units or mobile home spaces occupied by tenants on January 1, 2007 until the tenants vacate their units or spaces making rent control no longer be permissible.

Prop. 98 mandates that private property can not be taken by eminent domain for private use unless the property is the site of a public nuisance or criminal activity, or the Governor has declared a state of emergency.

Additionally, if property is acquired by a public agency through eminent domain, before the agency may put the property to a use substantially different from the stated public use the condemning agency must make a good faith effort to locate the original owner and offer to sell the property back at the price which the agency paid for the property. Furthermore, farm owners and business owners evicted by eminent domain are entitled to compensation for temporary business losses, relocation expenses, business reestablishment costs and other reasonable expenses.

**Background:** In 2005 the United State Supreme Court (the Court) heard *Kelo v. City of New London*, 545 U.S. 469 (2005)[1]. The Court ruled that the use of eminent domain can be used to transfer land from one private owner to another to further economic development. The Court held in a 5-4 decision that the general benefits a community enjoyed from economic growth qualified as a permissible public use under the Takings Clause of the Fifth Amendment.

Current law allows state government to take private property for public purposes provided that the government pays the owner for its value. Land can be acquired by eminent domain for public purposes including schools, fire stations, highways, police stations, water projects, flood control, emergency services and parks.

**Status:** California Primary Election Ballot- June 3

**Proponents:** California Alliance to Protect Private Property, California Farm Bureau Federation, Howard Jarvis Taxpayers Association

**Opponents:** AARP, California Police Chiefs Association, California Teachers Association, League of Women Voters of California

**Supporters:** California Hispanic Chambers of Commerce, Apartment Association of Greater LA