

Updated December 2008

LEGISLATION REPORT CARD



State: California

- Attempts at substantial reform have failed, while passed reform measures leave plenty of loopholes for continued abuse
- The state's abusive redevelopment statutes continue to leave nearly all property owners at risk

As citizens of an environmentally conscious state, Californians will be disappointed to know that the five eminent domain bills signed into law in 2006 were basically a waste of paper. In a state where thousands of properties have been threatened and/or condemned in the last decade, these bills scarcely hinder the rampant abuse of eminent domain.

California is the home state of Congresswoman Maxine Waters, one the champions of eminent domain reform at the federal level, yet the State Assembly dismissed more robust and permanent protections for private property rights and instead passed a package of five bills that do very little to ensure that citizens' homes and businesses are safe from tax-hungry government officials and land-hungry developers. Senate Bills 53, 1206, 1210, 1650, and 1809 create a few additional procedural hoops for condemning authorities to jump through, such as requiring more details about the proposed use of the targeted property and additional findings of blight when renewing a blight designation. These bills are mostly cosmetic and will not prevent determined officials from taking private property for another private party's benefit.

Senate Bill 1206 came the closest to substantive reform by trying to address California's broad definition of blight, but it failed to make any significant changes. The state's redevelopment statutes still leave almost any property at risk of condemnation. If Californians' properties are truly going to be protected, the Legislature must ensure

that properties may be taken only if they are an immediate threat to public health and safety, and that this assessment must be made on a property-by-property basis.

In November 2006, Californians considered Proposition 90, a ballot initiative that, if passed, would have addressed property rights protections in the state constitution. Unfortunately, even that proposed amendment lacked the strong public use language necessary to ensure the security of homes, businesses, farms, and houses of worship. Probably because of a highly controversial provision on regulatory takings, the measure narrowly failed.

In June 2008, Californians considered two rival ballot measures, Proposition 98 and Proposition 99, both proposed constitutional amendments, and they approved the latter. Proposition 98 would have prohibited all private property from being taken for private use, thereby offering broad protections to Californians. However, the measure also included language that opponents claimed would have phased out rent control. Sponsored by the League of California Cities—the beneficiaries of eminent domain abuse—Proposition 99 provides protection for “owner-occupied residences” but specifically excludes all small business owners, all renters, and even all new homeowners if they have lived in their residences for less than a year. Even if a majority of voters had voted in favor of Proposition 98, Proposition 99 contained a provision that would have nullified any other attempts to amend that part of the state constitution.

Senate Bills 53, 1206, and 1650
Sponsored by: State Senator Christine Kehoe

Senate Bill 1809
Sponsored by: State Senator Michael Machado
Status: All signed into law on September 29, 2006.

Senate Bill 1210
Sponsored by: State Senator Tom Torlakson

Prop. 99
Sponsored by: citizen initiative
Status: Approved by voters on June 3, 2008