

BALLOT PROPOSITION #207
Private Property Rights Protection Act

FISCAL ANALYSIS

Description

Proposition 207 would create additional limits on state and local governments' powers of eminent domain in Arizona. Eminent domain is the power of the government to take private property for public use. The burden of proof to determine a public use for private property would have to be made in court and not by the legislative action of a state or local government. Economic development benefits such as increased tax revenues or tax base, employment, and general economic health would not be permissible uses of eminent domain.

For slum clearance and redevelopment, a government must establish clear and convincing evidence that each parcel is needed, poses a direct threat to public health and safety, and no reasonable alternative to condemnation exists. If a principal residence is taken, occupants would be provided with comparable replacement dwellings. If property owners elect to receive monetary compensation instead, the amount must be at least equal to the cost of purchasing a comparable dwelling.

Under the proposition, if property rights or values are reduced by land use laws enacted after an owner has acquired property, the owner is entitled to just compensation at fair market value. Exceptions include public safety, public nuisances, federal requirements, illegal uses, and utilities. Following a land use law change, if an owner demands specific compensation within 3 years of the change, the government has 90 days to rescind the law change or it must reach an agreement with the owner on a compensation amount.

The proposition allows governments to negotiate settlements with owners. Property owners are entitled to reasonable attorney fees, expenses and costs in all eminent domain actions, to be determined by a jury or by the court if the property owner waives the right to a jury. Currently, plaintiffs pay their own litigation costs in eminent domain cases.

Estimated Impact

The proposition may increase the cost to state and local government to acquire private property for public use in some circumstances. Proposition 207 also requires a property owner to be compensated, including reasonable attorney fees, if the value of a person's property is reduced by the enactment of a land use law.

The proposition also prohibits the use of eminent domain for economic development. If state and local governments reduce their use of eminent domain as a result, their compensation costs may decline.

The overall fiscal impact will be affected by how the proposition affects the level of economic development in a community.

Local Government Impact

As described above.

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This estimate was prepared by Brian Cary (602-926-5491).
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