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House Vote Counters Eminent Domain Measure

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WASHINGTON -- Conservative defenders of private property and liberal protectors of the poor joined in an overwhelming House vote to prevent local and state governments from seizing homes and businesses for use in economic development projects.

The House legislation, passed 376-38, was in response to a widely criticized 5-4 ruling by the Supreme Court last June that allowed eminent domain authority to be used to obtain land for tax revenue-generating commercial purposes.

That decision, said the House's third-ranked Republican, Deborah Pryce of Ohio, "dealt a blow to the rights of property owners across the country."

The bill would withhold for two years all federal economic development funds from states and localities that use economic development as a rationale for property seizures. It also would bar the federal government from using eminent domain powers for economic development.

It now goes to the Senate, where Sen. John Cornyn, R-Texas, has introduced similar legislation.

The ruling in *Kelo v. City of New London* allowed the Connecticut city to exercise state eminent domain law to require several homeowners to cede their property for commercial use.

Conservatives were in the forefront in arguing that this was a dangerous interpretation of the "takings clause" in the Fifth Amendment of the Constitution that allows the government to seize property for public use, with just compensation.

"Governments should not be able to bulldoze a person's home or business to benefit other individuals," said Rep. Henry Bonilla, R-Texas.

Liberals warned that it could make it easier to tear down poor neighborhoods. "We don't need you on this one," Rep. Maxine Waters, D-Calif., said to those arguing that eminent domain can lead to beneficial urban renewal projects. "We need you to respect the right of those minorities and those poor people to hold on to what is their own."

Opponents of the legislation argued that its exclusion of economic development was too broad and that the federal government should not be interceding in what should be a local issue. "We should not change federal law every time members of Congress disagree with the judgment of a locality when it uses eminent domain for the purpose of economic development," said Rep. Bobby Scott, D-Va.

About half the states are also considering changes in their laws to prevent takings for private use.

The Bush administration, backing the House bill, said in a statement that "private property rights are the bedrock of the nation's economy and enjoy constitutionally protected status. They should also receive an appropriate level of protection by the federal government."

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The House, by a voice vote, approved a proposal by Rep. Phil Gingrey, R-Ga., to bar states or localities in pursuit of more tax money from exercising eminent domain over nonprofit or tax-exempt religious organizations. Churches, he said, "should not have to fear because God does not pay enough in taxes."

Eminent domain, the right of government to take property for public use, is typically used for projects that benefit an entire community, such as highways, airports or schools.

Justice John Paul Stevens, who wrote the majority opinion in *Kelo*, said in an August speech that while he had concerns about the results, the ruling was legally correct because the high court has "always allowed local policymakers wide latitude in determining how best to achieve legitimate public goals."

Several lawmakers who opposed the House bill said eminent domain has long been used by local governments for economic development projects such as the Inner Harbor in Baltimore and the cleaning up of Times Square in New York. The District of Columbia is expected to use eminent domain to secure land for a new baseball stadium for the Washington Nationals.

On the Net:

Information on the bill, H.R. 4128, can be found at <http://thomas.loc.gov/>

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