

SUBSTITUTE FOR
SENATE JOINT RESOLUTION E

A joint resolution proposing an amendment to the state constitution of 1963, by amending section 2 of article X, to restrict the power of state or local government to take private property by eminent domain for certain private purposes.

Resolved by the Senate and House of Representatives of the state of Michigan, That the following amendment to the state constitution of 1963, to restrict the power of state or local government to take private property by eminent domain for certain private purposes, is proposed, agreed to, and submitted to the people of the state:

1

ARTICLE X

2

Sec. 2. Private property shall not be taken for public use

Senate Joint Resolution E as amended November 9, 2005
as amended December 13, 2005

1 without just compensation therefore being first made or secured in
2 a manner prescribed by law. <<IF PRIVATE PROPERTY CONSISTING OF AN
INDIVIDUAL'S PRINCIPAL RESIDENCE IS TAKEN FOR PUBLIC USE, THE AMOUNT OF
COMPENSATION MADE AND DETERMINED FOR THAT TAKING SHALL BE NOT LESS THAN
125% OF THAT PROPERTY'S FAIR MARKET VALUE, IN ADDITION TO ANY OTHER
REIMBURSEMENT ALLOWED BY LAW.>> Compensation shall be determined in
3 proceedings in a court of record.

4 "PUBLIC USE" DOES NOT INCLUDE THE TAKING OF PRIVATE PROPERTY
5 FOR TRANSFER TO A PRIVATE ENTITY FOR THE PURPOSE OF ECONOMIC
6 DEVELOPMENT OR ENHANCEMENT OF TAX REVENUES. PRIVATE PROPERTY
7 OTHERWISE MAY BE TAKEN FOR REASONS OF PUBLIC USE AS THAT TERM IS
8 UNDERSTOOD ON THE EFFECTIVE DATE OF THE AMENDMENT TO THIS
9 CONSTITUTION THAT ADDED THIS PARAGRAPH.

10 IN A CONDEMNATION ACTION, THE BURDEN OF PROOF IS ON THE
11 CONDEMNING AUTHORITY TO DEMONSTRATE, BY THE PREPONDERANCE OF THE
12 EVIDENCE, THAT THE TAKING OF [A] PRIVATE PROPERTY IS FOR A PUBLIC USE,
13 UNLESS THE CONDEMNATION ACTION INVOLVES A TAKING FOR THE
14 ERADICATION OF BLIGHT, IN WHICH CASE THE BURDEN OF PROOF IS ON THE
15 CONDEMNING AUTHORITY TO DEMONSTRATE, BY CLEAR AND CONVINCING
16 EVIDENCE, THAT THE TAKING [OF THAT PROPERTY] IS FOR A PUBLIC USE.

17 ANY EXISTING RIGHT, GRANT, OR BENEFIT AFFORDED TO PROPERTY
18 OWNERS AS OF NOVEMBER 1, 2005, WHETHER PROVIDED BY THIS SECTION, BY
19 STATUTE, OR OTHERWISE, SHALL BE PRESERVED AND SHALL NOT BE
20 ABROGATED OR IMPAIRED BY THE CONSTITUTIONAL AMENDMENT THAT ADDED
21 THIS PARAGRAPH.

22 Resolved further, That the foregoing amendment shall be
23 submitted to the people of the state at the next general election
24 in the manner provided by law.