



Overview—H.R. 1433, the Private Property Protection Act of 2011

H.R. 1433 would discourage states and localities from abusing their eminent domain power by denying states or localities that commit such abuse all federal economic development funds for a period of two years. The bill also gives property owners a legal recourse to fight economic development takings.

Congressman Sensenbrenner first introduced the Private Property Rights Protection Act in the 109th Congress, which passed the House with overwhelming bipartisan support, by a vote a 376-38.

Background:

In 2005, the U.S. Supreme Court held in *Kelo v. City of New London* that private property could be “condemned” for the sole purpose of implementing a local government’s redevelopment plan, thereby allowing property to be turned over to private developers in a private-to-private transfer.

Practically, this means that government could seize private property if the redevelopment of the property would yield more tax revenue. Prior to the ruling, eminent domain was legally restricted to only projects with a clear public use, such as roads and schools.

As Justice Sandra Day O’Connor said in her stinging dissent, “nothing is to prevent the state from replacing any Motel 6 with a Ritz Carlton, any home with a shopping center, or any farm with a factory.”

Those filing amicus briefs in the *Kelo* case that disagreed with the Supreme Court’s decision include the NAACP, AARP, religious organizations, and the American Farm Bureau. They argued that this decision will disproportionately affect and harm the economically disadvantaged, as well as farmers and ranchers who own and lease significant amounts of land on which they depend for their livelihoods.

Additionally, houses of worship and other religious institutions will be vulnerable targets for eminent domain actions under schemes that disfavor non-profit, tax-exempt property owners

Although several states have passed legislation to limit their eminent domain power, the Private Property Rights Act is needed to provide all Americans protection from eminent domain abuse. All state and local governments should be disincentivized from using eminent domain to transfer property from one private owner to another.