

**SENATE CONCURRENT
RESOLUTION No. 74**

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

SYNOPSIS

Proposes Constitutional amendment to limit exercise of eminent domain to acquisition of land for essential public purposes.

CURRENT VERSION OF TEXT

As introduced.



SCR74 OROHO

2

1 A CONCURRENT RESOLUTION proposing to amend Article VIII,
2 Section III, paragraph 1 of the Constitution of the State of New
3 Jersey.

4

5 BE IT RESOLVED by the Senate of the State of New Jersey (the
6 General Assembly concurring):

7

8 1. The following proposed amendment to the Constitution of
9 the State of New Jersey is agreed to:

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11

PROPOSED AMENDMENT

12

13 Amend Article VIII, Section III, paragraph 1, to read as follows:

14 1. **【**The clearance, replanning, development or redevelopment
15 of blighted areas shall be a public purpose and public use, for which
16 private property may be taken or acquired. Municipal, public or
17 private**】** Public corporations may be authorized by law to
18 **【**undertake such clearance, replanning, development or
19 redevelopment; and improvements made for these purposes and
20 uses, or for any of them,**】** exercise the power of eminent domain for
21 essential public purposes. Essential public purposes shall include
22 and be limited to utility and transportation corridors, educational
23 facilities, airports, correctional facilities, solid waste handling
24 facilities, landfills, sewage treatment facilities, storm water
25 management facilities, in-patient health facilities, and recreational
26 facilities.

27 Improvements undertaken by a private corporation in connection
28 with the clearance, replanning, development or redevelopment of
29 blighted areas shall be a public purpose and public use in order to
30 develop or redevelop blighted areas, for which eminent domain may
31 not be exercised, but which may be exempted from taxation, in
32 whole or in part, for a limited period of time during which the
33 profits of and dividends payable by any private corporation
34 enjoying such tax exemption shall be limited by law. The
35 conditions of use, ownership, management and control of such
36 improvements shall be regulated by law.

37 (cf: Article VIII, Section III, paragraph 1)

38

39 2. When this proposed amendment to the Constitution is finally
40 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
41 shall be submitted to the people at the next general election
42 occurring more than three months after the final agreement and
43 shall be published at least once in at least one newspaper of each
44 county designated by the President of the Senate, the Speaker of the
45 General Assembly and the Attorney General, not less than three
46 months prior to the general election.

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 3. This proposed amendment to the Constitution shall be
2 submitted to the people at that election in the following manner and
3 form:
4 There shall be printed on each official ballot to be used at the
5 general election, the following:
6 a. In every municipality in which voting machines are not used,
7 a legend which shall immediately precede the question, as follows:
8 If you favor the proposition printed below make a cross (X), plus
9 (+), or check (T) in the square opposite the word "Yes." If you are
10 opposed thereto make a cross (X), plus (+) or check (T) in the
11 square opposite the word "No."
12 b. In every municipality the following question:
13

	YES	<p>CONSTITUTIONAL AMENDMENT TO LIMIT THE EXERCISE OF EMINENT DOMAIN TO THE ACQUISITION OF LAND FOR ESSENTIAL PUBLIC PURPOSES</p> <p>Do you approve amending the Constitution to allow government to take land only for essential public purposes?</p>
	NO	<p>INTERPRETIVE STATEMENT</p> <p>This proposed amendment would limit the power of State and local government to take private property for public use. Currently, private property may be taken to eliminate blight. This would be prohibited under the amendment. Instead, the amendment provides that private property may only be taken for an essential public purpose.</p> <p>A “yes” vote would amend the Constitution to allow government to take land for specific essential public purposes. The permitted purposes include certain uses in the following areas: utilities; transportation; schools; prisons and jails; waste and landfills; sewage and waste water; health care; and recreation. The government would be prohibited from taking land to eliminate blighted areas.</p> <p>A “no” vote would leave the Constitution unchanged, so the government may still take land for any public purpose, including eliminating blight.</p>

STATEMENT

This concurrent resolution proposes a constitutional amendment to limit the eminent domain power of State and local government to the acquisition of private property only for purposes considered to be "essential public purposes."

The proposed amendment would define "essential public purposes" to include and be limited to the establishment of utility and transportation corridors, educational facilities, airports, correctional facilities, solid waste handling facilities, landfills, sewage treatment facilities, storm water management facilities, in-patient health facilities, and recreational facilities.

Currently, the State Constitution establishes the clearance, replanning, development or redevelopment of blighted areas as a public purpose and public use for which government may take or acquire private property. This amendment would specifically prohibit government from acquiring private property for these purposes, although it would permit government to continue to grant tax exemptions to private corporations in order to promote the redevelopment of blighted areas.

It is the sponsor's belief that as a result of the U.S. Supreme Court decision in Kelo v. City of New London, 545 U.S. 469 (2005) which upheld a municipality's right to condemn private residences for private redevelopment, New Jersey homeowners and business owners are now more vulnerable to overreaching government action which impairs private property rights. Accordingly, this constitutional amendment represents an attempt to protect New Jersey residents from the effects of this decision.