

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3631

To limit the States use of eminent domain.

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2005

Mr. HEFLEY introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To limit the States use of eminent domain.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Eminent Domain Lim-  
5       itation Act of 2005”.

6       **SEC. 2. FINDINGS.**

7       Congress finds that—

8               (1) the protection of private property is one of  
9       the three basic tenets of American government;

1           (2) it is the constitutional duty of the Federal  
2 Government to defend the Constitution;

3           (3) the United States Supreme Court's decision  
4 of June 23, 2005 in the case of Kelo et al v. City  
5 of New London et al appears to expand the defini-  
6 tion of public use under eminent domain to signifi-  
7 cantly threaten private property rights;

8           (4) economic development is not a public use,  
9 for the purposes of eminent domain; and

10          (5) no property should be taken for a public use  
11 unless the need for such taking is exigent.

12 **SEC. 3. LIMITATIONS ON STATE USE OF EMINENT DOMAIN.**

13          (a) IN GENERAL.—No State shall be eligible to re-  
14 ceive any Federal assistance for any economic development  
15 unless that State has in effect a law relating to takings  
16 meeting the criteria set forth in subsection (b).

17          (b) CRITERIA.—The law relating to takings must—

18           (1) prohibit the use of eminent domain for eco-  
19 nomic development;

20           (2) limit the uses for which eminent domain  
21 may be used to public health and safety, rights-of-  
22 way for public utilities and public highways and  
23 parks; and

1           (3) require the entity engaging in the taking to  
2           show the necessity for it and that no reasonable al-  
3           ternatives exist.

4           (c) ADMINISTRATION.—The President shall make  
5           rules to carry out this Act and determine which States  
6           are in compliance and direct appropriate agencies and en-  
7           tities to withhold assistance accordingly.

8           (d) EFFECTIVE DATE.—This section applies with re-  
9           spect to fiscal year 2007 and succeeding fiscal years.

○