

**ASSEMBLY CONCURRENT
RESOLUTION No. 59**

**STATE OF NEW JERSEY
213th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Assemblyman RICHARD A. MERKT

District 25 (Morris)

Assemblywoman ALISON LITTELL MCHOSE

District 24 (Sussex, Hunterdon and Morris)

Co-Sponsored by:

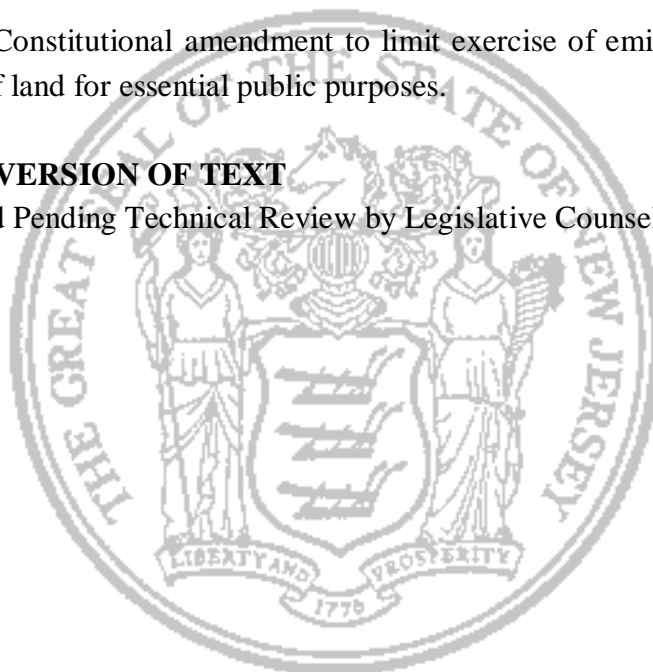
**Assemblyman E.Munoz, Assemblywoman Handlin, Assemblymen
Doherty, Biondi, Assemblywoman Karrow, Assemblymen Russo,
Thompson, Rooney, Chiusano and Assemblywoman N.Munoz**

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 11/24/2009)

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

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

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

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PROPOSED AMENDMENT

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

14 1. **【**The clearance, replanning, development or redevelopment of
15 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)

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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

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.

ACR59 MERKT, MCHOSE

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1 General Assembly and the Attorney General, not less than three
2 months prior to the general election.

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4 3. This proposed amendment to the Constitution shall be
5 submitted to the people at that election in the following manner and
6 form:

7 There shall be printed on each official ballot to be used at the
8 general election, the following:

9 a. In every municipality in which voting machines are not used,
10 a legend which shall immediately precede the question, as follows:

11 If you favor the proposition printed below make a cross (X), plus
12 (+), or check (✓) in the square opposite the word "Yes." If you are
13 opposed thereto make a cross (X), plus (+) or check (✓) in the
14 square opposite the word "No."

15 b. In every municipality the following question:

	<p>YES</p>	<p>CONSTITUTIONAL AMENDMENT TO LIMIT THE EXERCISE OF EMINENT DOMAIN TO THE ACQUISITION OF LAND FOR ESSENTIAL PUBLIC PURPOSES</p> <p>Shall the amendment to Article VIII, Section III, paragraph 1 of the State Constitution, agreed to by the Legislature, to limit the exercise of eminent domain powers by government to the acquisition of land for essential public purposes, be approved?</p>
	<p>NO</p>	<p>INTERPRETIVE STATEMENT</p> <p>This proposed amendment would limit the power of State and local government to take private property for public use by requiring that this power, known as eminent domain, be used only for an essential public purpose. This amendment narrows the definition of public purpose in the State Constitution to mean an essential public purpose.</p> <p>If this amendment is approved, essential public purposes will 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.</p> <p>If approved, this amendment will specifically prohibit the acquisition of private property by government for the clearance, replanning, development, or redevelopment of blighted areas, although it will permit government to continue to grant tax exemptions as incentives for private corporations to undertake redevelopment efforts in blighted areas.</p>

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STATEMENT

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This concurrent resolution proposes a constitutional amendment

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to limit the eminent domain power of State and local government to

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the acquisition of private property only for purposes considered to

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be "essential public purposes."

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

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

15 It is the sponsor's belief that as a result of the U.S. Supreme
16 Court decision in *Kelo et al. v. City of New London* (No. 04-108,
17 decided June 23, 2005) which upheld a municipality's right to
18 condemn private residences for private redevelopment, New Jersey
19 homeowners and business owners are now more vulnerable to
20 overreaching government action which impairs private property
21 rights. Accordingly, this constitutional amendment represents an
22 attempt to protect New Jersey residents from the effects of this
23 decision.