

PROPOSITION 207
I-21-2006; PRIVATE PROPERTY RIGHTS PROTECTION ACT

ANALYSIS BY LEGISLATIVE COUNCIL

Eminent domain is the power of the government to take private property for public use. Proposition 207 sets forth the rights of a property owner when the state or a local government exercises the power of eminent domain. (These rights are in addition to the current statutory and constitutional rights.)

Proposition 207 would limit the use of eminent domain to situations where eminent domain is authorized by the state and the property taken is put to a public use. The proposition defines "public use" to include:

1. The use of land by the general public or by public agencies.
2. The use of land for utilities.
3. The acquisition of property to eliminate a direct threat to the public health or safety caused by the current condition of the property.
4. The acquisition of abandoned property.

Proposition 207 excludes from the definition of public use the public benefits of economic development.

The Arizona constitution prohibits a government from taking private property, unless the government provides just compensation to the property owner. Proposition 207 provides that as just compensation when a person's primary residence is taken by the government, the person must be provided a comparable replacement dwelling that is decent, safe and sanitary. The property owner may choose to receive money compensation instead of the replacement dwelling.

Proposition 207 also provides that a property owner is entitled to just compensation if the value of a person's property is reduced by the enactment of a land use law. A land use law is defined as a law that regulates the use or division of land, such as municipal zoning laws, or regulates accepted farming or forestry practices. The proposition sets out seven types of land use laws that are exempt from the compensation requirement.

If a property owner were successful in an eminent domain law suit, Proposition 207 would require the government to pay the land owner's attorney fees and costs. If a property owner were successful in a law suit for reduction in the property's value, the court could award attorney fees and costs.