

House Resolution 2

By: Representative Franklin of the 43rd

A RESOLUTION

1 Proposing an amendment to the Constitution of the State of Georgia so as to prohibit the
 2 taking of private property through eminent domain; to provide for submission of this
 3 amendment for ratification or rejection; and for other purposes.

4 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 **SECTION 1.**

6 Article I, Section III of the Constitution is amended by revising Paragraph I as follows:

7 "Paragraph I. *Eminent domain.*

8 ~~(a) Except as otherwise provided in this Paragraph, private property shall not be taken~~
 9 ~~or damaged for public purposes without just and adequate compensation being first paid.~~

10 ~~(b) When private property is taken or damaged by the state or the counties or~~
 11 ~~municipalities of the state for public road or street purposes, or for public transportation~~
 12 ~~purposes, or for any other public purposes as determined by the General Assembly, just and~~
 13 ~~adequate compensation therefor need not be paid until the same has been finally fixed and~~
 14 ~~determined as provided by law; but such just and adequate compensation shall then be paid~~
 15 ~~in preference to all other obligations except bonded indebtedness.~~

16 ~~(c) The General Assembly may by law require the condemnor to make prepayment~~
 17 ~~against adequate compensation as a condition precedent to the exercise of the right of~~
 18 ~~eminent domain and provide for the disbursement of the same to the end that the rights and~~
 19 ~~equities of the property owner, lien holders, and the state and its subdivisions may be~~
 20 ~~protected.~~

21 ~~(d) The General Assembly may provide by law for the payment by the condemnor of~~
 22 ~~reasonable expenses, including attorney's fees, incurred by the condemnee in determining~~
 23 ~~just and adequate compensation.~~

24 ~~(e) Notwithstanding any other provision of the Constitution, the General Assembly may~~
 25 ~~provide by law for relocation assistance and payments to persons displaced through the~~
 26 ~~exercise of the power of eminent domain or because of public projects or programs; and~~
 27 ~~the powers of taxation may be exercised and public funds expended in furtherance thereof.~~

28 Reserved."

29 **SECTION 2.**

30 Article IX, Section II of the Constitution is amended by revising Paragraph V as follows:

31 "Paragraph V. ***Eminent domain.*** ~~The governing authority of each county and of each~~
 32 ~~municipality may exercise the power of eminent domain for any public purpose subject to~~
 33 ~~any limitations on the exercise of such power as may be provided by general law.~~
 34 ~~Notwithstanding the provisions of any local amendment to the Constitution continued in~~
 35 ~~effect pursuant to Article XI, Section I, Paragraph IV or any existing general law, each~~
 36 ~~exercise of eminent domain by a nonelected housing or development authority shall be first~~
 37 ~~approved by the elected governing authority of the county or municipality within which the~~
 38 ~~property is located.~~ Reserved."

39 **SECTION 3.**

40 Article IX, Section II, Paragraph VII of the Constitution is amended by redesignating current
 41 subparagraphs (b) through (d) as new subparagraphs (a) through (c), respectively, and by
 42 repealing subparagraph (a) which reads as follows:

43 "(a) Each condemnation of privately held property for redevelopment purposes must be
 44 approved by vote of the elected governing authority of the city within which the property
 45 is located, if any, or otherwise by the governing authority of the county within which the
 46 property is located. The power of eminent domain shall not be used for redevelopment
 47 purposes by any entity, except for public use, as defined by general law."

48 **SECTION 4.**

49 The above proposed amendment to the Constitution shall be published and submitted as
 50 provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the
 51 above proposed amendment shall have written or printed thereon the following:

52 "() YES Shall the Constitution of Georgia be amended to recognize the right of
 53 () NO private property by eliminating eminent domain abuse?"

54 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."
 55 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If
 56 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall
 57 become a part of the Constitution of this state.