

## PROPOSED INITIATIVE

Be it enacted by the People of the State of Colorado:

Section 15 of Article II of the constitution of the state of Colorado is amended to read:

### **Section 15. Taking property for public use - compensation, How ascertained.**

(1) IN ORDER TO PROTECT PROPERTY RIGHTS, private Property shall not be taken or damaged for A public USE, AS PROVIDED IN THIS SECTION, or FOR A private use, AS PROVIDED UNDER SECTION 14 OF THIS ARTICLE, without just compensation. Such compensation shall be Ascertained by a board of commissioners, of not less than three Freeholders, or by a jury, when required by the owner of the property, in Such manner as may be prescribed by law, and until the same shall be paid To the owner, or into court for the owner, the property shall not be Needlessly disturbed, or the proprietary rights of the owner therein Divested; and

(2) Whenever an attempt is made to take private property for a use Alleged to be public, the question whether the contemplated use be really Public shall be a judicial question, and determined as such without regard To any legislative assertion that the use is public. IN ORDER TO EXERCISE THE POWER OF EMINENT DOMAIN, A CONDEMNOR SHALL ESTABLISH BY CLEAR AND CONVINCING EVIDENCE THAT THE CONDEMNATION OF THE PROPERTY IS FOR A PUBLIC USE. AS USED IN THIS SUBSECTION (2), THE TERM "PUBLIC USE" SHALL ONLY MEAN:

(a) THE POSSESSION AND OCCUPATION OF THE CONDEMNED PROPERTY BY A PUBLIC ENTITY OR BY A PUBLIC UTILITY, REGARDLESS OF WHETHER SUCH PUBLIC UTILITY IS A PRIVATE ENTITY AND NOTWITHSTANDING THE AUTHORITY OF THE PUBLIC UTILITIES COMMISSION UNDER ARTICLE XXV OF THIS CONSTITUTION; OR

(b) THE ACQUISITION AND DISPOSITION OF PROPERTY IN ORDER TO REMEDY CONDITIONS WHICH ENDANGER LIFE OR PROPERTY AND WHICH ARE DETRIMENTAL TO THE PUBLIC HEALTH OR PUBLIC SAFETY. THE PUBLIC OR PRIVATE BENEFITS OF ECONOMIC DEVELOPMENT, INCLUDING AN INCREASE IN THE TAX BASE, TAX REVENUES, EMPLOYMENT, OR GENERAL ECONOMIC HEALTH, SHALL NOT CONSTITUTE A PUBLIC USE FOR PURPOSES OF THIS SECTION.

(3) PRIVATE PROPERTY SHALL NOT BE TAKEN BY A PRIVATE PARTY

EXCEPT AS A PRIVATE WAY OF NECESSITY AS PROVIDED UNDER SECTION 14 OF THIS ARTICLE, OR FOR USE BY A PUBLIC UTILITY IN ACCORDANCE WITH THE REQUIREMENTS OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION.

(4)In proposing and enacting this amendment, it is the intent of the General Assembly and the voters of Colorado to ensure that no force or effect is given to any part of any other amendment or amendments to Section 15 of Article II of the constitution dealing with private property rights that are considered at the 2006 general election, if the votes cast in favor of such amendment or amendments is fewer than the number of votes cast in favor of this measure.