



Virginia voters will decide this fall whether to amend Virginia's constitution to curb eminent domain abuse.

## Virginians to vote on property rights amendment Nov. 6

This November, Virginians will have the opportunity to vote on a constitutional amendment to protect private property rights, thanks in part to efforts of Farm Bureau members statewide.

Question 1 on the Nov. 6 ballot will read, "*Shall Section 11 of Article I (Bill of Rights) of the Constitution of Virginia be amended (i) to require that eminent domain only be exercised where the property taken or damaged is for public use and, except for utilities or the elimination of a public nuisance, not where the primary use is for private gain, private benefit, private increasing jobs, increasing tax revenue, or economic development; (ii) to define what is included in just compensation for such taking or damaging of property; and (iii) to prohibit the taking or damaging of more private property than is necessary for the public use?*"

Farm Bureau members have supported amending Virginia's constitution to curb eminent domain abuses for the past several years.

"We can't begin to say how pleased we are that this bill has passed the (state) House and Senate for the second year in a row," said Trey Davis, Virginia Farm Bureau Federation assistant director of governmental relations. "We are urging our members to vote for this amendment on

Nov. 6 and to encourage their friends and neighbors to join them in voting for it as well."

The Virginia constitution recognizes that some 'takings' are necessary for 'public use.' However, public use should be narrowly defined, and just compensation should be provided to an individual whose property is being taken, Davis said.

The bill authorizing the ballot initiative for the amendment tightens the definition of public use and requires just compensation for owners whose property has been taken using eminent domain. It was sponsored in the General Assembly by Del. Robert Bell, R-Charlottesville, and Sen. Mark Obenshain, R-Harrisonburg.

"It hasn't been easy getting to this point, and I appreciate the bipartisan support that this amendment has seen," Davis said. "We are confident that Virginians will recognize this as a way to protect all citizens' private property rights from unfair takings under the guise of eminent domain."

Additionally, Farm Bureau was instrumental in securing companion legislation that defines "lost profits" and "lost access" as factors in determining just compensation as part of the constitutional amendment.

## 2005 court decision added urgency to property rights fight

It's been seven years since a U.S. Supreme Court decision that made people realize their American dreams literally could be snatched right out from under them.

In *Kelo et al. v. City of New London, Conn., et al.*, the Supreme Court allowed the city of New London, Conn., to invoke eminent domain—the taking of private property for public use. In that June 23, 2005, decision, the court ruled that the governmental taking of property from a private owner to give to another is acceptable if the state's laws allow economic development as permissible "public use" under the Fifth Amendment.

Nine property owners were forced to move out of their homes so the city could sell their 15 lots, along with 100 others, to a commercial developer who promised to redevelop the area.

The *Kelo* decision unleashed a wave of eminent domain takings. In the first year after *Kelo*, more than 5,700 properties nationwide were threatened by or taken with eminent domain for private development, according to the Institute for Justice, a civil liberties law firm that represented the *Kelo* homeowners. There were more than 10,000 such instances in the five years before the decision.

Since the summer of 2005, more than 40 states have passed laws increasing protections against eminent domain takings, and some states have passed constitutional amendments protecting private property rights.