

## House kills eminent domain bill

Staff and Wire Reports

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A constitutional amendment that would prevent Kansans from being forced to sell their land except for public use failed Thursday in the House, but members planned to debate a proposed law passed by the Senate. The vote was 81-43, but supporters needed a two-thirds majority - 84 votes - for passage. Had both chambers adopted it, voters would have decided in November whether to add its provisions to the Kansas Constitution.

The area's delegation in the House split on the amendment proposal. State Reps. Sydney Carlin and Tom Hawk, both Democrats, voted against it. State Reps. Richard Carlson, Kathe Decker and Sharon Schwartz, Republicans from outlying areas east, west and north of the city, supported it. While many legislators have said they want to protect property owners from state and local governments, some have worried that going too far could stifle economic development. Carlin, a former Manhattan mayor, said a constitutional amendment limited future flexibility. It's too difficult to ... be reactive to the state's future needs and the communities' needs," Carlin told The Mercury this morning. She also criticized the amendment proposal for not calling for the current market value of the property to be considered in determining price. Supporters of amending the constitution said during a debate Wednesday that doing so would protect new safeguards from court rulings and future legislative action. We've abused eminent domain. We've corrupted it for private use," said sponsoring Rep. Frank Miller, R-Independence. It's a continuing decay of freedom in our country." In June, the U.S. Supreme Court ruled local governments may seize people's homes and businesses against their will for private economic development. At issue was the scope of the Fifth Amendment to the U.S. Constitution, allowing governments to take private property through eminent domain if the land is for "public use." The court gave local governments wide power to seize private property for conversion into projects such as shopping malls to generate tax revenue. But it also said states are within their rights to pass additional laws restricting condemnations, prompting the Kansas proposals. At least 30 states have considered limiting the practice. In Kansas, the House's proposed amendment would have said no property can be taken through eminent domain for use by any private commercial enterprise, economic development or any private use unless the property owner is willing to sell. The proposal also required governments to pay 50 percent more than a property's appraised value in most forced sales. In cases where the taking was done to eliminate a public health or safety threat, a court would have determined the amount paid. When a government took property, it would have been required to hold it for at least seven years before giving it to a third party. The proposal still allowed property to be taken for public uses such as building highways and bridges, lakes and parks. A Senate Bill passed Tuesday was set for House debate today. That bill restricts state and local governments' power to force a sale so property can be turned over to another individual or company. State law says forced sales are presumed to promote public use" of the property. The bill allows six instances in which state governments can force a sale so property can be turned over to another individual or company, such as building roads, stringing utility lines or dealing with abandoned and uninhabitable property. The Senate bill also requires the Legislature to approve each attempt to force a property sale for an economic development project. The Associated Press contributed to this report.

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