



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

February 14, 2012

H.R. 1433 **Private Property Rights Protection Act of 2012**

As ordered reported by the House Committee on the Judiciary on January 24, 2012

H.R. 1433 would deny federal economic development assistance to state or local governments that exercise the power of eminent domain for economic development purposes or to take property from a tax-exempt entity, such as a religious or nonprofit organization. (Eminent domain is the right to take private property for public use.) The bill also would prohibit federal agencies from engaging in such practices. Private property owners would be given the right to bring legal actions seeking enforcement of those provisions, and the legislation would waive states' Constitutional immunity to such suits. Finally, H.R. 1433 would require the Attorney General to notify states and the public of how the legislation would affect individuals' property rights and to report to the Congress each year on private rights of action brought against state and local governments.

CBO estimates that implementing this legislation would have no significant net effect on discretionary spending over the next five years. CBO estimates that additional reporting requirements by the Attorney General would cost less than \$500,000 over the next five years, assuming appropriation of the necessary amounts. Enacting H.R. 1433 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 1433 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) but would impose significant new conditions on the receipt of federal economic development assistance by state and local governments. (Such conditions are not considered mandates under UMRA.) Because those conditions would apply to a large pool of funds, the bill effectively would restrict the use of eminent domain by state and local governments and would limit the ability of local governments to manage land use in their jurisdictions. Further, state and local governments could incur significant legal expenses to respond to private legal actions authorized by the bill.

CBO expects that few state and local governments would receive reduced federal assistance under the bill. Under current law, the federal government provides economic development assistance through several sources, including programs of the Departments of Agriculture, Health and Human Services, and Housing and Urban Development; the

Economic Development Administration; and various regional commissions. CBO expects that most jurisdictions would not risk this assistance by exercising the use of eminent domain in situations described by the bill. Furthermore, the bill provides several exceptions where the use of eminent domain would not result in a reduction in federal assistance, including takings for public use, for public rights of way, to acquire abandoned property, and to remove immediate threats to public health and safety. Given existing state laws that restrict powers of eminent domain and based on the historical use of such power, CBO expects that the use of eminent domain for purposes that would not meet any of the exceptions specified in the bill would be minimal.

State or local governments found to have exercised the power of eminent domain targeted by the bill would be ineligible for federal economic development assistance for two years. In those cases, CBO expects that affected property would be returned or replaced (which would reinstate eligibility) or that federal assistance would instead be provided to other eligible entities. Any change in the pace of federal spending would be insignificant, CBO estimates.

The CBO staff contacts for this estimate are Daniel Hoople (for federal costs) and Melissa Merrell (for the state and local impact). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.