CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 19, 2005

H.R. 3405
Strengthening the Ownership of Private Property Act of 2005

As ordered reported by the House Committee on Agriculture on October 7, 2005

H.R. 3405 would direct federal agencies to deny economic development assistance to any state or local entity that violates either of two prohibitions on its use of the power of eminent domain. First, a government could not use the power of eminent domain to transfer ownership of property from one private entity to another, unless the transfer is for one of several purposes listed in the bill. Second, a government could not use eminent domain for economic development purposes without providing relocation assistance to displaced property owners. The denial of federal assistance would continue for two years or until the affected jurisdiction returns the property at issue to its original owner. Finally, the bill would give private property owners the right to bring civil actions to seek enforcement of these prohibitions if they are subject to a prohibited action.

CBO expects that implementing the bill would have no significant impact on the federal budget because most jurisdictions would not risk the economic development assistance they receive from the federal government by using eminent domain as described in the bill. Further, a few states are considering legislation that would restrict the authority of localities to take private property for economic development projects. By denying economic assistance for up to two years to localities using eminent domain in a way proscribed in the bill, the pace of spending for some grant programs could be marginally reduced. Enacting the bill would not affect direct spending or revenues.

The bill specifies several programs operated by the Departments of Agriculture, Commerce, Housing and Urban Development, and other agencies as subject to the potential denial of federal assistance. As a result of the bill's disincentive to use eminent domain for private property transfers and the small likelihood that a jurisdiction would put its federal assistance in jeopardy, CBO assumes that H.R. 3405 would not have a significant impact on spending for the specified federal programs.

H.R. 3405 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act, but would impose significant new conditions on the receipt of federal economic development assistance by state, local, and tribal governments. These governments receive assistance totaling about $6.5 billion each year from the programs that could be affected by the bill. Because these conditions would apply to such a large pool of funds, the bill effectively would restrict the use of eminent domain, and would have a significant impact on local governments' powers to manage land use in their jurisdictions. The requirement to pay relocation assistance also could result in additional costs for state and local governments. Further, state and local governments probably would incur significant additional legal expense to respond to private legal actions authorized by the bill.

The CBO staff contacts for this estimate are Gregory Waring (for federal costs) and Marjorie Miller (for the state and local impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.