

SECOND REGULAR SESSION

# HOUSE JOINT RESOLUTION NO. 78

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FREDERICK.

5954H.011

D. ADAM CRUMBLISS, Chief Clerk

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### JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment repealing section 26, of article I of the Constitution of Missouri, and adopting one new section in lieu thereof relating to eminent domain.

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*Be it resolved by the House of Representatives, the Senate concurring therein:*

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2018, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article I of the Constitution of the state of Missouri:

Section A. Section 26, article I, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 26, to read as follows:

Section 26. **1.** That private property shall not be taken or damaged for public use without just compensation. Such compensation shall be ascertained by a jury or board of commissioners of not less than three freeholders, in such manner as may be provided by law; and until the same shall be paid to the owner, or into court for the owner, the property shall not be disturbed or the proprietary rights of the owner therein divested. The fee of land taken for railroad purposes without consent of the owner thereof shall remain in such owner subject to the use for which it is taken.

**2. That the value of private property shall not be diminished by any land use law or regulation without just compensation and that any land use law or regulation shall have the principal purpose of protecting the health and safety of the general public. The state shall have the burden of proof to demonstrate the legitimacy of land**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 use laws or regulations under this section by a preponderance of the evidence and such  
13 issues shall be a question of law. When a land use law or regulation is held to be  
14 permissible under this section but diminishes the value of private property, just  
15 compensation shall be ascertained by a jury. Until the just compensation is paid to the  
16 land owner, or into court for the owner, the land use law or regulation shall be void.

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