

**Initiative #108**  
**Compensation for Reduction in Fair Market Value by Government Law or Regulation**

1 **Amendment ? proposes amending the Colorado Constitution to:**

- 2     ◆ require the state or a local government to compensate a property owner if a law  
3     or regulation reduces the fair market value of property.

4 **Summary and Analysis**

5     **Background.** Both the Colorado Constitution and state law specify that a  
6     government may not take or damage private property without providing compensation to  
7     the owner. Procedures in law exist to evaluate and challenge government decisions that  
8     lead to takings or cause damages, including asking for public and property owner input  
9     and establishing the amount of compensation owed.

10     **Takings and damages.** There are three primary ways that the state or a local  
11     government can take or damage private property. Governments in Colorado are  
12     generally required to compensate a property owner in these cases. The first type of  
13     taking is called “eminent domain.” A government may take land from a private property  
14     owner for a public use or benefit. For example, a government may take land from a  
15     property owner to expand a highway. The second type of taking occurs if a government  
16     causes damage to private property, whether intentional or accidental. For example, a  
17     government may build a road that limits access to an individual’s property. The third  
18     type of taking is a “regulatory taking,” which occurs when a government enacts a law or  
19     regulation that deprives a property owner of the use or value of his or her property, even  
20     though he or she usually maintains ownership of the property. For example, a  
21     government may prohibit a property owner from constructing buildings on his or her  
22     property, leaving the property with almost no value.

23     **Changes under Amendment ?.** Amendment ? expands the circumstances under  
24     which the state or a local government is required to provide compensation to a property  
25     owner for a regulatory taking. Under this measure, a law or regulation that results in any  
26     decrease in the fair market value of a property, as opposed to an almost total loss in  
27     value, becomes a regulatory taking.

*For information on those issue committees that support or oppose the measures on the ballot at the **November 6, 2018**, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:*

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

1 **Argument For**

2 1) For many Coloradans, property is the most significant asset they own. If a law or  
3 regulation causes any loss of value, it is only right that the owner be fairly  
4 compensated by the state or a local government. However, current law does not  
5 require a government to compensate an owner unless the loss in value is near  
6 total. Amendment ? ensures that a government is held accountable for the  
7 enforcement of all of its laws and regulations, even those that only partially affect  
8 the value of a property.

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10 **Argument Against**

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12 2) Amendment ? may discourage governments from making decisions that benefit  
13 communities and protect vital public resources, such as water, air, and  
14 infrastructure. The measure requires a government to pay property owners for  
15 any loss of value resulting from a law or regulation, regardless of the size of the  
16 loss, and even if the property owner continues to use the land. Taxpayers will be  
17 responsible for these unnecessary and costly payouts. Any change in law or  
18 regulation, even those broadly desired by a community, could be challenged by  
19 private land owners, leaving governments reluctant to address important policy  
20 issues.

21 **Estimate of Fiscal Impact**

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23 The measure requires that the state or a local government compensate property  
24 owners any time a law or regulation reduces the fair market value of private property.  
25 The measure will increase state and local expenditures to compensate private property  
26 owners as a result of regulatory or legislative action, and will increase state and local  
27 revenue from court fees.