

Binding the Grabbing Hand: Effects of State Laws Limiting Private Use Takings

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Abstract: In *Kelo v. City of New London* the Court blessed takings for the purpose of private redevelopment on the grounds that such takings can generate economic growth, benefitting the public. Property rights advocates criticized this expansion of permissible takings, and many state legislatures responded with laws restricting these private takings. These laws provide the opportunity to examine the aggregate welfare effects of *Kelo* and the subsequent limits on private takings. If private takings are necessary to unlock economic growth, the state limitations should reduce property values. If private takings are, on net, harmful because of their effects on property rights and resulting compensation is expected to be inadequate, the state laws should improve property values. Home value data suggest that laws limiting the ability of states to engage in private takings improve property values substantially. This effect is larger in the low end of the housing market, as well as in states that had previously indicated a willingness to engage in private takings.

Outcome data: Zillow state level total housing index from 1996-present (overall average; average in bottom quartile; and average in top quartile) at the monthly frequency.

Policy variables: Institute for Justice (index of passage of state limits as well as A-F grades¹ of strength of laws https://ij.org/wp-content/uploads/2015/03/50_State_Report.pdf; also Institute for Justice search of public coverage of pre-June 2006 state filings for private takings <https://ij.org/wp-content/uploads/2015/04/floodgates-report.pdf>).

Regression framework:

$$\ln(Zillow_{st}) = a + \beta policy_{st} + \sum_{s=1}^{51} \lambda_s + \sum_{t=1}^T \tau_t + year_t \sum_{s=1}^{51} \lambda_s + year_t^2 \sum_{s=1}^{51} \lambda_s$$

Standard two-way (states s and time periods t) fixed effects model; also include state-specific linear and state-specific quadratic trends. Standard errors clustered at state level (results also largely the same if Gelbach style state and time period multi-dimensional clusters are used; same with permutation inference).

Results

Effect of Law Passage on Average State Housing Value			
Full Time Period Used (April 1996 – September 2020)			
(Standard Errors Clustered at State Level)			
State Law Limiting Private Takings	0.13*** (0.05)	0.10*** (0.03)	0.10*** (0.03)
State Fixed Effects	Yes	Yes	Yes

¹ Re-coded as F = 0, . . . , A = 11 for quantitative use. F represents no law in the IJ scheme.

Time Period Fixed Effects	Yes	Yes	Yes
State-Specific Annual Trends	None	Linear	Quadratic
Note: Outcome variable is Zillow Value Home Index – All Homes (https://www.zillow.com/research/data/) and state law data come from Institute for Justice			

State laws increase housing value index on the order of 10 percent regardless of specification. Estimate is statistically significant at the $p < 0.01$ level.

Effect of Law Passage on Average State Housing Value			
Pre 2016 Sample (April 1996 – September 2020)			
(Standard Errors Clustered at State Level)			
State Law Limiting Private Takings	0.12*** (0.04)	0.07*** (0.02)	0.07*** (0.02)
State Fixed Effects	Yes	Yes	Yes
Time Period Fixed Effects	Yes	Yes	Yes
State-Specific Annual Trends	None	Linear	Quadratic
Note: Outcome variable is Zillow Value Home Index – All Homes (https://www.zillow.com/research/data/) and state law data come from Institute for Justice			

Effect is largely the same if only examine 10 years post-Kelo.

Effect of Law Strength on Average State Housing Value			
Full Time Period Used (April 1996 – September 2020)			
(Standard Errors Clustered at State Level)			
State Law Limiting Private Takings	0.10** (0.04)	0.08** (0.03)	0.08** (0.03)
State Law Grade (goes up as law is more protective)	0.01* (0.00)	0.01 (0.00)	0.01 (0.00)
State Fixed Effects	Yes	Yes	Yes
Time Period Fixed Effects	Yes	Yes	Yes
State-Specific Annual Trends	None	Linear	Quadratic
Note: Outcome variable is Zillow Value Home Index – All Homes (https://www.zillow.com/research/data/) and state law data come from Institute for Justice			

Positive effect on value goes up as law is more protective. Although the separate grade effect is not consistently statistically significant, that is mostly due to collinearity between the law variable and the grade variable.² The estimated effects are jointly significant ($p < 0.01$).

Effect of Law Passage – Effect Heterogeneity			
Full Time Period Used (April 1996 – September 2020)			
(Standard Errors Clustered at State Level)			
	Lowest Quartile	Average	Highest Quartile

² For example, if the model is re-run dropping the general law variable and only including the grade variable, the grade coefficient does not change but is consistently statistically significant at $p < 0.05$.

State Law Grade (goes up as law is more protective)	0.0104** (0.0046)	0.0099** (0.0043)	0.0088** (0.0040)
State Fixed Effects	Yes	Yes	Yes
Time Period Fixed Effects	Yes	Yes	Yes
State-Specific Annual Trends	Linear	Linear	Linear
Note: Outcome variable is Zillow Value Home Index (https://www.zillow.com/research/data/) and state law data come from Institute for Justice			

The estimated effects are largest for the lowest value homes and decline as the values go up. The difference between the bottom tier effect estimate and the top tier effect estimate is statistically significant at $p < 0.08$.

Effect of Law Passage By Risk of Private Takings					
Full Time Period Used (April 1996 – September 2020)					
(Standard Errors Clustered at State Level)					
	Full Sample	Takings > 0	$\geq 25^{\text{th}}$ Percentile	$\geq 50^{\text{th}}$ Percentile	$\geq 75^{\text{th}}$ Percentile
State Law Limiting Private Takings	0.10*** (0.03)	0.12*** (0.04)	0.15*** (0.04)	0.16*** (0.03)	0.19*** (0.03)
State Fixed Effects	Yes	Yes	Yes	Yes	Yes
Time Period Fixed Effects	Yes	Yes	Yes	Yes	Yes
State-Specific Annual Trends	Linear	Linear	Linear	Linear	Linear
Note: Outcome variable is Zillow Value Home Index – All Homes (https://www.zillow.com/research/data/) and state law data come from Institute for Justice					

The estimated effect is larger in states that have shown a willingness to file for private takings and the effect grows when the sample is successively restricted to states attempting to engage in more private takings.

Conclusion: Court bad; property rights crazies good.