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Uncompensated Takings: Insurance, Efficiency, and Relational Justice,
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The Fifth Amendment requires the government to pay “just compensation” when it takes private property through eminent domain. Prominent scholars, however, have argued that optimally the government would pay nothing for taken property. Treating takings compensation as a form of government-provided insurance, they argue that owners should be left to purchase that insurance from private companies. Lee argues that both the standard justifications for requiring government compensation and the arguments challenging that requirement have overlooked the importance of a distinct form of “relational justice.” Lee shows why any net social efficiency gains from replacing government compensation with private insurance would likely be negligible at best.