

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

SECOND REGULAR SESSION-2006

Legislative Document

No. 1870

H.P. 1310

House of Representatives, January 3, 2006

An Act To Clarify Laws Governing Eminent Domain

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 28, 2005. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland

MILLICENT M. MacFARLAND

Clerk

Presented by Representative PELLETIER-SIMPSON of Auburn.

Cosponsored by Representatives: FLETCHER of Winslow, JOY of Crystal, LINDELL of Frankfort, MAKAS of Lewiston, Senator TURNER of Cumberland and

Representatives: BRYANT of Windham, CUMMINGS of Portland, DUNN of Bangor, SCHATZ of Blue Hill, Senators: BRYANT of Oxford, HOBBS of York.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 1 MRSA §816** is enacted to read:

6 **§816. Limitations on eminent domain authority**

8 **1. Purposes.** Except as provided in subsections 2 and 3 and
10 **notwithstanding any other provision of law, the State, a**
political subdivision of the State and any other entity with
eminent domain authority may not condemn property:

12 **A. For the purposes of private retail, office, commercial,**
industrial or residential development;

14 **B. Primarily for the enhancement of tax revenue; or**

16 **C. For transfer to a person, nongovernmental entity,**
18 **public-private partnership, corporation or other business**
20 **entity.**

22 **2. Blight exception.** Subsection 1 does not apply to the
24 **use of eminent domain by any municipality, housing authority or**
other public entity based upon a finding of blight in an area
covered by any redevelopment plan or urban renewal plan pursuant
26 **to Title 30-A, chapter 203 or 205, but just compensation, in all**
cases, must continue to be first made to the owner.

28 **3. Utilities exception.** Subsection 1 does not limit the
30 **exercise of eminent domain by or for the benefit of public**
utilities or other entities engaged in the generation,
32 **transmission or distribution of telephone, gas, electric, water,**
sewer or other utility products or services.

34 **4. Governmental purposes not affected.** Nothing in this
36 **section may be interpreted to prohibit a municipal or county**
governing body from exercising the power of eminent domain for
38 **the purpose of constructing, maintaining or operating streets and**
roadways, government buildings, schools or park and recreation
40 **facilities.**

42 **SUMMARY**

44 This bill is in response to the United States Supreme Court
46 decision in Kelo v. City of New London, 73 USLW 4552 (2005). The
bill prohibits the use of eminent domain authority for purposes
of private retail, office, commercial, industrial or residential

2 development; primarily for the enhancement of tax revenue; or for
transfer to a person, nongovernmental entity, public-private
3 partnership, corporation or other business entity. The
4 restriction does not apply to an area upon a finding of blight
under current law governing urban development and community
5 development. The restriction does not apply to utilities.
6