

MAINE STATE LEGISLATURE

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No. 254

H.P. 210

House of Representatives, January 18, 2007

An Act To Restrict Takings under Eminent Domain

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative ANNIS of Dover-Foxcroft.
Cosponsored by Senator SMITH of Piscataquis and
Representatives: AYOTTE of Caswell, FINCH of Fairfield, JOY of Crystal, LEWIN of Eliot,
RICHARDSON of Carmel, RICHARDSON of Greenville, THOMAS of Ripley.

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

2 **Sec. 1. 1 MRSA §815, first ¶**, as enacted by PL 2001, c. 328, §2, is amended to
3 read:

4 Notwithstanding any other provision of law, if an entity that has taken property by
5 eminent domain fails to use the property for the project or purpose for which that
6 property was taken, the condemnee or the condemnee's heirs have a right of first refusal
7 to purchase the property as provided in this section. The right may be exercised at a price
8 equal to the total compensation paid to the condemnee for the taking ~~plus an adjustment~~
9 ~~for any improvements made to the property and for changes in inflation based upon the~~
10 ~~Consumer Price Index as defined in Title 36, section 5402, subsection 1.~~ The right of
11 first refusal automatically terminates once the property is used for the project or purpose
12 for which that property was taken. The purpose of a taking may be passive in nature,
13 including conservation or preservation.

14 **Sec. 2. 1 MRSA §816, sub-§1-A** is enacted to read:

15 **1-A. Absolute minimum needed.** The State, a political subdivision of the State or
16 other entity with eminent domain authority may not condemn more land occupied by a
17 business than the absolute minimum necessary for the project or purpose for which the
18 eminent domain authority is properly exercised.

19 **SUMMARY**

20 This bill amends the current law that provides the right of first refusal for the former
21 owner of a property when the property is not used for the project or purpose for which it
22 was taken by eminent domain. This bill requires that the price to be paid by the former
23 owner must be equal to the price paid to the owner when the property was taken; no
24 adjustments are made for improvements or inflation.

25 This bill also prohibits the condemnation of property occupied by a business in
26 excess of what is absolutely necessary for the project or purpose for which the power of
27 eminent domain is exercised.