

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 386

H.P. 293

House of Representatives, February 5, 2009

**An Act To Establish a Process for the Determination of a  
Reasonable Price in the Use of Eminent Domain by the Maine  
Turnpike Authority**

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Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative HILL of York.  
Cosponsored by Senator BOWMAN of York and  
Representatives: CLEARY of Houlton, WEAVER of York, WRIGHT of Berwick, Senator:  
BARTLETT of Cumberland.

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

2 **Sec. 1. 23 MRSA §1967, sub-§2**, as enacted by PL 1981, c. 595, §3, is amended  
3 to read:

4 **2. Use of eminent domain.** Whenever a reasonable price cannot be agreed upon for  
5 the purchase or lease of real property found necessary for the purposes of the authority or  
6 whenever the owner is legally incapacitated or is absent or is unable to convey valid title  
7 or is unknown, the authority may acquire by eminent domain any such real property  
8 whether wholly or partly constructed or interest or interests therein and any land, rights,  
9 easements, franchises and other property deemed necessary or convenient for the  
10 construction or reconstruction or the efficient operation of the turnpike, its connecting  
11 tunnels, or bridges, overpasses, underpasses or interchanges, or both, in the manner  
12 provided by chapter 3, subchapter III. ~~Title to any property taken by eminent domain~~  
13 ~~shall be in the name of the authority-3,~~ except that compensation must be determined  
14 according to the fair market value of the property or interests taken valued at the highest  
15 of:

16 A. The average fair market value of the property or interests over the previous 5  
17 years;

18 B. The average fair market value of the property or interests over the previous 10  
19 years; and

20 C. The average fair market value of the property or interests over the previous  
21 number of years equal to the number of years between the previous 2 municipal  
22 property valuations for property tax purposes.

23 Title to any property taken by eminent domain must be in the name of the authority. The  
24 authority may not acquire by eminent domain any property or interests unless the  
25 authority publicly documents that no other site or design is consistent with public  
26 convenience and necessity. The cost of a site or design may not be considered a factor  
27 when determining whether the site or design is consistent with public convenience and  
28 necessity.

29 **SUMMARY**

30 This bill requires that, when taking property by eminent domain, the Maine Turnpike  
31 Authority determine the fair market value of property or interests to be one of the  
32 following, whichever yields the highest value:

33 1. The average fair market value of the property or interests over the previous 5  
34 years;

35 2. The average fair market value of the property or interests over the previous 10  
36 years; or

37 3. The average fair market value of the property or interests over the previous  
38 number of years equal to the number of years between the previous 2 municipal property  
39 valuations for property tax purposes.

1           The bill also provides that the Maine Turnpike Authority may not acquire by eminent  
2 domain any property or interests unless the authority publicly documents that no other  
3 site or design is consistent with public convenience and necessity. The bill also provides  
4 that the Maine Turnpike Authority may not use the cost of a site or design as a factor  
5 when determining whether a site or design is consistent with public convenience and  
6 necessity.