

## CHAPTER 21

### EMINENT DOMAIN

#### **§811. Real property or interest therein may be taken**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 544, §1 (RP).

#### **§812. Manner of taking**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 544, §1 (RP).

#### **§813. Procedure**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 544, §1 (RP).

#### **§814. Purchase of real estate**

**1. Expansion in the Capitol Area.** Whenever the Governor determines that public exigencies require the construction of additional buildings, structures, parking spaces or other facilities for the expansion of State Government in the Capitol Area, the Governor may purchase or take by eminent domain real estate in Augusta.

[PL 1991, c. 824, Pt. A, §1 (NEW).]

**2. Capitol Area defined.** The Capitol Area is defined as the following described premises:

A. The west side of the Kennebec River as follows: Beginning at the intersection of the westerly line of Sewall Street with the northerly line of Capitol Street; thence westerly along said northerly line of Capitol Street to a point opposite the intersection of the westerly line of Federal Street and the southerly line of Capitol Street; thence continuing westerly along the northerly line of said Capitol Street 150 feet to a point; thence southerly across Capitol Street and continuing southerly parallel to said westerly line of Federal Street about 800 feet to Kennedy Brook; thence following the thread of the stream generally easterly to its intersection with the northerly property line of the land of the State of Maine, being part of the Motor Vehicles premises; thence westerly about 60 feet along said property line; thence southerly along said property line about 155 feet; thence easterly along said property line about 140 feet; thence southerly along said property line about 120 feet to the northerly line of Manley Street; thence diagonally and southwesterly across Manley Street to its intersection with the northwesterly corner of other land of the State of Maine; thence southerly along said property line extended to the northerly line of Glenwood Street; thence along said Glenwood Street easterly to the westerly line of State Street; thence northerly along said State Street about 150 feet to a point opposite the northerly line of Britt Street; thence across State Street and along the northerly line of said Britt Street easterly to its intersection with property of Augusta Sanitary District; thence northerly and easterly as said property line may run to its intersection with the Kennebec River; thence along said river northerly as the same may run to its intersection with the southerly line of Highway Route 201; thence southwesterly along said highway line, as the same may run, to the easterly line of State Street at its intersection with Memorial Traffic Circle;

thence across State Street in a northwesterly direction to the southeasterly line of Grove Street at its intersection with Memorial Traffic Circle; thence southwesterly along said Grove Street to the northerly line of Higgins Street; thence across Grove Street; thence southerly along Grove Street to its intersection with the northerly line of Wade Street; thence westerly about 400 feet in a straight line along Wade Street and its northerly line extended to the westerly line of Sewall Street; thence southerly along Sewall Street to the point of beginning; and [PL 2015, c. 168, §1 (AMD).]

B. The east side of the Kennebec River as follows: Beginning at a point at the intersection of the northerly line of the Old Arsenal Grounds with the westerly line of Hospital Street; thence westerly along said northerly line of the Old Arsenal Grounds 1,680 feet to a point at the Kennebec River; thence following the river generally southwesterly to a point where a projected northeasterly line of Kelton Road would meet the river, being a point 2,185 feet, more or less, from the intersection of said road and the northwesterly line of Hospital Street; thence southeasterly to and along the projected northwesterly line of Kelton Road from the river to a point on the southwest corner of the lands of the Augusta Sanitary District 564.19 feet, more or less, from the intersection of Kelton Road and Hospital Street; thence northeasterly at an interior angle of 89° 20' a distance of 84.88 feet to a point; thence southeasterly at an interior angle of 90° a distance of 76.09 feet to a point; thence northeasterly at an interior angle of 270° a distance of 98.74 feet to a point; thence at an interior angle of 90° 20' a distance of 212.8 feet, more or less, on a line bearing S 61° 20' E to a point; thence southwesterly at an interior angle of 90° a distance of 36.06 feet, more or less, to a point on the northerly line of the Augusta Sanitary District property; thence in an easterly direction at an angle 90° and a distance of 128.42 feet, more or less, to a point; thence in a northerly direction at an angle of 90° a distance of 73 feet to a point; thence in an easterly direction at an angle of 90° and a distance of 143 feet, more or less, to a point on the westerly line of Hospital Street; thence northeasterly along the westerly line of Hospital Street 3,125 feet to a point on the southeast corner of the lands of the City of Augusta; thence westerly at right angle 185 feet to a point; thence southerly at right angle 25 feet to a point; thence westerly at right angle 115 feet to a point; thence northerly at right angle 140 feet to a point; thence easterly at right angle 115 feet to a point; thence northerly at right angle 20 feet to a stone bound; thence easterly at right angle 185 feet to the westerly line of Hospital Street; thence northerly along the westerly line of Hospital Street 380 feet, more or less, to the point of beginning. [PL 1991, c. 824, Pt. A, §1 (NEW).]

[PL 2015, c. 168, §1 (AMD).]

**3. Procedure.** All proceedings under this section must be in accordance with Title 35-A, chapter 65.

[PL 1991, c. 824, Pt. A, §1 (NEW).]

#### SECTION HISTORY

PL 1969, c. 380 (RPR). PL 1971, c. 544, §2 (RPR). PL 1975, c. 470, §1 (RPR). PL 1975, c. 771, §4 (AMD). PL 1989, c. 502, §A1 (AMD). PL 1991, c. 538, §1 (AMD). PL 1991, c. 824, §A1 (RPR). PL 2015, c. 168, §1 (AMD).

#### §815. Abandonment of purpose; rights of condemnee

Notwithstanding any other provision of law, if an entity that has taken property by eminent domain fails to use the property for the project or purpose for which that property was taken, the condemnee or the condemnee's heirs have a right of first refusal to purchase the property as provided in this section. The right may be exercised at a price equal to the total compensation paid to the condemnee for the taking plus an adjustment for any improvements made to the property and for changes in inflation based upon the Consumer Price Index. The right of first refusal automatically terminates once the property is used for the project or purpose for which that property was taken. The purpose of a taking may be passive in nature, including conservation or preservation. [PL 2013, c. 368, Pt. Q, §1 (AMD).]

**1. Reaffirmation of public purpose.** If a property has not been used for the purpose for which it was taken after 8 years from the date of condemnation, the entity must reaffirm the need to retain the property for that purpose by giving notice to the public of its continuing intent to use the property for that purpose. Notice to the public is by publication twice consecutively in a daily or weekly newspaper having general circulation in the municipality or political subdivision in which the property is located. If the purpose of the taking was to construct improvements, the property is deemed as being used for that purpose upon the commencement of substantial on-site construction activity. After the initial reaffirmation, for so long as the property has not been used for the purpose for which it was taken, the entity must reaffirm the need to retain the property every 3 years. Reaffirmation under this subsection does not constitute a retaking of the property, and this section does not require the entity to make additional payments to the condemnee or the condemnee's heirs. If the entity fails to reaffirm the need to retain the property, the entity must notify the condemnee or the condemnee's heirs as described in subsection 2.

[PL 2001, c. 328, §2 (NEW).]

**2. Notification of right of first refusal.** If the need to retain the property is not reaffirmed as required by subsection 1, the entity using eminent domain must give written notice of the right of first refusal provided by this subsection to the condemnee or the condemnee's heirs by certified mail, return receipt requested, or by any other method that produces written evidence of receipt. Notice is sufficient under this subsection if the signed receipt is returned or the certified mail is returned as refused by the recipient.

A. If after reasonable diligence the address of the condemnee or the condemnee's heirs can not be determined, the notice is sufficient if it is published twice consecutively in a daily or weekly newspaper having general circulation in the municipality or political subdivision in which the property obtained by eminent domain is located. [PL 2001, c. 328, §2 (NEW).]

B. If, within 90 days of the issuance of the written notice or the second publishing date as required by this subsection, the condemnee or the condemnee's heirs have either refused the right of first refusal on the property or failed to respond to the notice, then the entity may dispose of the property in any manner allowed by law free and clear from any rights provided by this section. [PL 2001, c. 328, §2 (NEW).]

[PL 2001, c. 328, §2 (NEW).]

**3. Waiver of rights under this section.** Notwithstanding any other provision of this section, the condemnee or the condemnee's heirs may waive or release any rights provided under this section at any time.

[PL 2001, c. 328, §2 (NEW).]

**4. Exemptions.** This section does not apply to property taken by eminent domain if that property:

A. Was taken in whole or in part using federal funds or the eminent domain authority to take the property was derived from federal law; [PL 2001, c. 328, §2 (NEW).]

B. Does not meet state or municipal lot size or frontage requirements; [PL 2001, c. 328, §2 (NEW).]

C. Was taken to expand existing corridors used for transportation or utility purposes including highways, bridges, railroad lines or utility lines; or [PL 2001, c. 328, §2 (NEW).]

D. Was taken before October 1, 2001. [PL 2001, c. 328, §2 (NEW).]

[PL 2001, c. 328, §2 (NEW).]

## SECTION HISTORY

PL 2001, c. 328, §2 (NEW). PL 2013, c. 368, Pt. Q, §1 (AMD).

### §816. Limitations on eminent domain authority

**1. Purposes.** Except as provided in subsections 2 and 3 and 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 land used for agriculture, fishing or forestry or land improved with residential homes, commercial or industrial buildings or other structures:

A. For the purposes of private retail, office, commercial, industrial or residential development; [PL 2005, c. 579, §1 (NEW); PL 2005, c. 579, §2 (AFF).]

B. Primarily for the enhancement of tax revenue; or [PL 2005, c. 579, §1 (NEW); PL 2005, c. 579, §2 (AFF).]

C. For transfer to an individual or a for-profit business entity. [PL 2005, c. 579, §1 (NEW); PL 2005, c. 579, §2 (AFF).]  
[PL 2005, c. 579, §1 (NEW); PL 2005, c. 579, §2 (AFF).]

**2. Blight exception.** Subsection 1 does not apply to the 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 to Title 30-A, chapter 201, 203 or 205, but just compensation, in all cases, must continue to be made to the owner.  
[PL 2005, c. 579, §1 (NEW); PL 2005, c. 579, §2 (AFF).]

**3. Utilities exception.** Subsection 1 does not limit the exercise of eminent domain by or for the benefit of public utilities or other entities engaged in the generation, transmission or distribution of telephone, gas, electric, water, sewer or other utility products or services.  
[PL 2005, c. 579, §1 (NEW); PL 2005, c. 579, §2 (AFF).]

**4. Governmental purposes not affected.** Nothing in this section may be interpreted to prohibit a municipal or county governing body from exercising the power of eminent domain for purposes not otherwise prohibited by subsection 1.  
[PL 2005, c. 579, §1 (NEW); PL 2005, c. 579, §2 (AFF).]

#### SECTION HISTORY

PL 2005, c. 579, §1 (NEW). PL 2005, c. 579, §2 (AFF).

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