
By Mr. Clemons of Wakefield, petition of M. E. S. Clemons for legislation to provide for the condemnation of property by judicial proceedings instead of the taking thereof by eminent domain under administrative order. Judiciary (Joint).

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Twenty-Nine.

An Act providing for the Condemnation of Property by Judicial Proceedings instead of the Taking thereof by Eminent Domain under Administrative Order.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. If a body politic or corporate and the
2 persons owning or interested in any property which is
3 required for any purposes for which the body politic
4 or corporate is authorized to take property by emi-
5 nent domain cannot agree upon the price to be paid
6 for the interest of such persons therein, the body poli-
7 tic or corporate may file a petition in the superior
8 court for the county in which such property lies,
9 praying for the condemnation of such property.
10 Such petition shall contain a description of the prop-
11 erty to which it relates, sufficiently accurate for identi-
12 fication and a statement of the purposes for which
13 it is sought to be taken. If the court, after notice to
14 all parties interested, finds that the body politic or
15 corporate has the right to take such property by

16 eminent domain, it shall determine the value thereof
17 in accordance with chapter seventy-nine of the
18 General Laws, so far as it is applicable. If such
19 value with costs and reasonable expenses to be taxed
20 by the court is, within thirty days after final deter-
21 mination thereof, paid or tendered to said owners or
22 parties interested, or, in case of their neglect or
23 refusal to receive the same, if it is paid to the com-
24 monwealth for their use and subject to their order,
25 a decree of condemnation shall be entered by the
26 court, and, if the property taken consists of real estate,
27 a copy of the decree shall be recorded in the registry
28 of deeds of every county or district in which said
29 property or any of it lies, and thereupon the fee of
30 said property or the interest therein sought to be
31 taken shall vest in the body politic or corporate. If
32 the petitioner shall dismiss the petition before the
33 determination of value aforesaid or shall fail to make
34 payment of full compensation within said thirty
35 days, the court shall, upon application of the defend-
36 ants to said petition, or either of them, make such
37 order in such cause for the payment by the petitioner
38 of all costs, and all expenses and reasonable attorneys,
39 fees, not exceeding one hundred dollars in amount,
40 of such defendant or defendants paid or incurred by
41 him or them in defence of said petition, as upon the
42 hearing of such application shall be right and just.

1 SECTION 2. The procedure set forth in section one
2 shall apply, so far as applicable, in case of any con-
3 templated establishment, construction, maintenance,
4 operation, repair or discontinuance of any public
5 improvement, whether or not effected by or in accord-
6 ance with a formal vote or order of the board of

7 officers of a body politic or corporate duly authorized
8 by law, which does not involve the taking of private
9 property, if compensation is provided by law for any
10 injury resulting therefrom.

1 SECTION 3. The present provisions of law govern-
2 ing procedure in eminent domain, so far as the same
3 are inconsistent with this act, are hereby repealed.

