

SENATE No. 185

To accompany the petition of Michael LoPresti for legislation relative to apportionment of rights and damages in certain eminent domain proceedings. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Two.

AN ACT RELATIVE TO APPORTIONMENT OF RIGHTS AND DAMAGES IN CERTAIN EMINENT DOMAIN PROCEEDINGS.

1 *Whereas*, The deferred operation of this act would
2 in part defeat its purpose, which is to provide just
3 compensation for persons under certain eminent
4 domain proceedings, therefore it is hereby declared
5 to be an emergency law necessary for the immediate
6 preservation of the public health, safety and con-
7 venience.

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. Any person, partnership, association or
2 corporation who conducts a manufacturing establish-
3 ment, an established business or profession or who
4 dwells on or in property which is taken for the central
5 artery project by the department of public works
6 under the provisions of chapter three hundred and six
7 of the acts of nineteen hundred and forty-nine, and

8 who is thereby compelled to move his or its place of
9 business or abode, shall be entitled to recover, in
10 addition to any other damages to which he may be
11 entitled by law as damages, the reasonable cost of
12 moving said establishment, business, profession or
13 place of abode, including furnishings, fixtures, personal
14 property and machinery, to a place of business or
15 abode located within a radius of twenty miles from the
16 state house, and if said place of business is located
17 beyond said radius, the amount to be recovered shall
18 be the reasonable cost of moving said establishment
19 or said place of business, profession or abode a distance
20 of twenty miles. A petition for such damages may be
21 brought within one year after the taking or notice
22 to vacate in the superior court for Suffolk county.

1 SECTION 2. Any person, partnership, association
2 or corporation who is a tenant for years or at will of
3 property taken by the department for said project and
4 who is not entitled to damages under the provisions
5 of chapter seventy-nine or eighty A of the General
6 Laws or any other general or special act, except for
7 moving costs, as hereinbefore provided, shall be en-
8 titled to recover as damages the amount by which
9 alterations, improvements or repairs to said property
10 made by said tenant have enhanced the value of the
11 property as of the time of the taking, unless the
12 provisions of the lease or agreement of tenancy spe-
13 cifically makes different provision in regard thereto
14 in the event of a taking by eminent domain, or unless
15 the said lease or agreement provides that the said
16 repairs, alterations or improvements be made at the
17 expense of the tenant in consideration of the rent
18 reserved.

1 SECTION 3. Machinery or fixtures in any real
2 property which is taken for the central artery project
3 which by the terms of the lease or agreement are
4 severable by the tenant at the expiration of the
5 tenancy, or which are severable by the tenant as
6 a matter of right for any other reason, shall be con-
7 sidered as having been severed as of the time of the
8 taking, and the tenant shall be entitled to remove
9 them within ninety days after notice to that effect
10 from the department.

1 SECTION 4. A petition for damages under section
2 two shall be brought in the superior court for Suffolk
3 county within one year after the taking or after notice
4 to vacate and shall be tried along with any petition
5 relating to the same property brought by the owner
6 under chapter seventy-nine or eighty A of the General
7 Laws. At any such trial the court or jury as the case
8 may be shall find the total damages and apportion to
9 the owner and the tenant such part thereof as each
10 may be entitled.

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