

HOUSE No. 790

By Mr. Spatcher of Attleboro, petition of George I. Spatcher for requiring certain amounts to be offered when land is taken by eminent domain proceedings. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT REQUIRING CERTAIN AMOUNTS TO BE OFFERED BY A BODY
POLITIC WHEN A TAKING ON ITS BEHALF IS MADE UNDER EMINENT
DOMAIN PROCEEDINGS.

*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 8A of chapter 79 of the General Laws, inserted by
2 section 3 of chapter 626 of the acts of 1959, is hereby amended
3 by striking out the first paragraph and inserting in place thereof
4 the following paragraph: —

5 A board of officers who have made a taking under this chapter
6 shall before the expiration of nine months after the right to
7 damages for such takings has become vested, offer in writing to
8 every person entitled to damages on account of such taking a
9 reasonable amount equal at least to eighty per cent of the amount
10 of the damages established by the real estate review board of the
11 department of public works in takings by the commonwealth and
12 in all other cases eighty per cent of the amount of the damages
13 for said takings established by their advisers on such matters,
14 which such board is willing to pay either in settlement under
15 section thirty-nine of all damages for such taking, with interest
16 thereon and taxable costs, if any, or as a payment pro tanto
17 which may be accepted and collected forthwith without preju-
18 dice to or waiver or surrender of any right to claim a larger sum
19 by proceeding before an appropriate tribunal, but subject to the
20 obligation imposed by this section to refund an amount equal to

21 the difference between such payment and the damages subse-
22 quently assessed by such tribunal if such offer is accepted as a
23 payment pro tanto and such payment shall prove to be in excess
24 of the damages subsequently assessed by such tribunal. At the
25 election of the person accepting such offer, acceptance thereof
26 may be either in settlement as aforesaid or as such payment pro
27 tanto. After payment of such offer or tender of such payment,
28 no interest shall be recovered, except upon such amount of dam-
29 ages as shall, upon final adjudication, be in excess of the amount
30 of such offer; provided, that all taxable costs accruing subse-
31 quently to such offer shall be recoverable by the petitioner in
32 all cases, except as provided in section thirty-eight.