

**HOUSE . . . . . No.**

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

**Martha M. Walz**  
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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to eminent domain takings.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:
Martha M. Walz	8th Suffolk
Denise Provost	27th Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1770 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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### AN ACT RELATIVE TO EMINENT DOMAIN TAKINGS.

*Whereas*, The deferred operation for this act would tend to defeat its purpose, which is forthwith to make , therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*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. Chapter 79 of the General Laws, as appearing in the 2006 Official Edition, is hereby  
2 amended by inserting after section 1 the following new section:

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4 Section 1A. The taking of real estate or of any interest therein by right of eminent domain under this  
5 chapter or Chapter 80A shall be effected only when necessary for the possession, occupation, and  
6 enjoyment of land by the public at large or by public agencies and shall not be effected for the purpose of  
7 commercial enterprise, private economic development, or any private use of the property. Property shall  
8 not be taken from one owner and transferred to another on the grounds that the public will benefit from a  
9 more profitable use. Whenever an attempt is made to take property for a use alleged to be public, the  
10 question whether the contemplated use is truly public shall be a judicial question and determined as such  
11 without regard to any legislative assertion that the use is public. In the event that property taken pursuant  
12 to this chapter or Chapter 80A is not used for the purpose for which it was taken within five (5) years of  
13 the taking, the governmental authority that took the property must offer to sell the property to the owner  
14 from whom it was acquired, or his or her known or ascertainable heirs or assigns, at the price which was  
15 paid for the property or for the fair market value of the property at the time of the sale, whichever is less,

16 and if the offer is not accepted within 180 days from the date it is made, the property may be sold to any  
17 other person, but only at public sale after legal notice is given.