

HOUSE No. 1666

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to compensate the owners of private property for the effects of certian regulatory restrictions..

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 21A of the General Laws, as most recently amended by Chapter
2 312 of the Acts of 2008, is hereby amended by adding at the end the following new section:—
3 Section 23. (1) A portion or parcel of private property shall be considered to have been taken for
4 general public use when;(a) the Commonwealth, its agencies, departments or any political
5 subdivisions thereof regulates or imposes a restraint of land use on such portion or parcel of
6 property for public benefit; and(b) no public nuisance will be created absent regulation.(2) When
7 private property is taken for general use, the regulation agency, department or Commonwealth
8 shall pay full compensation of reduction in value to the owner, or the use of the land by the
9 owner may not be restricted because of the regulation or restraint. The Commonwealth may not
10 require waiving this compensation as a condition of approval of use of another permit, nor as a
11 condition for subdivision of land.(3) Compensation must be paid to the owner of a private
12 property within three months of the adoption of a regulation or restraint which results in a taking
13 for general public use.(4) The Commonwealth, its agencies, departments or any political
14 subdivisions thereof may not deflate the value of property by suggesting or threatening a

15 designation to avoid full compensation to the owner.(5) The Commonwealth, its agencies,
16 departments or any political subdivisions thereof that places restrictions on the use of public or
17 privately property which deprives a landowner of access to his or her property must also provide
18 alternative access to the property at the governmental entity's expense, or purchase the
19 inaccessible property.(6) The assessor shall adjust property valuation for tax purposes and notify
20 the owner of the new tax valuation, which must be reflected and identified in the next tax
21 assessment notice. (7) The Commonwealth is responsible for the compensation liability of the
22 other governmental entities for any action which restricts the use of property when such action is
23 mandated by state law or any state agency.(8) Claims for compensation as a result of a taking of
24 private property under this act must be brought not later than 180 days after the adoption of a
25 regulation or restraint which results in a taking for general public use.(9) The following words
26 and phrases as used in this section, unless the context otherwise requires, shall have the
27 following meanings:"Full compensation", means the reduction in the fair market value of the
28 portion or parcel of property taken for general public use which is attributable to the regulation
29 or restraint. Such reduction shall be measured as of the date of adoption of the regulation or
30 imposition of restraint on the use of private property."Private property", means:(a) land;(b) any
31 interest in land or improvements thereon;(c) any proprietary water right."Restraint of land use",
32 means any action, requirement, or restriction by a governmental entity, other than actions to
33 prevent or abate public nuisances, that limits the use or development of private property.(10)
34 This act may be enforced in Superior Court against any governmental entity which fails to
35 comply with the provisions of this section by an owner of property subject to the jurisdiction of
36 such entity. Any prevailing plaintiff is entitled to recover the costs of litigation, including

37 reasonable attorney's fees.(11) This section shall apply to all state regulations that were
38 promulgated and in effect from January 1, 2010, and after.