

SENATE No. 890

The Commonwealth of Massachusetts

PRESENTED BY:

Richard J. Ross

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 adoption of the accompanying bill:

An Act requiring that eminent domain be for the public use and defining public use.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Leonard Mirra</i>	<i>2nd Essex</i>
<i>Angelo M. Scaccia</i>	<i>14th Suffolk</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Robert L. Hedlund</i>	<i>Plymouth and Norfolk</i>
<i>Donald F. Humason, Jr.</i>	<i>Second Hampden and Hampshire</i>
<i>Viriato M. deMacedo</i>	<i>Plymouth and Barnstable</i>
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>

SENATE No. 890

By Mr. Ross, a petition (accompanied by bill, Senate, No. 890) of Richard J. Ross, Bradley H. Jones, Jr., Leonard Mirra, Angelo M. Scaccia and other members of the General Court for legislation to require that eminent domain takings be for public use purposes and defining the term public use. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 783 OF 2013-2014.]

The Commonwealth of Massachusetts

—————
**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**
—————

An Act requiring that eminent domain be for the public use and defining public use.

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 2014 Official Edition,
2 is hereby amended by inserting after section 1 the following new section:-

3 Section 1A. Notwithstanding any other provision of law, neither this state nor any
4 political subdivision thereof nor any other condemning entity shall use eminent domain unless it
5 is necessary for a public use. Whenever property is condemned and will be used by a private
6 party, the condemner must establish, by clear and convincing evidence, that the use of eminent
7 domain complies with this section and is reasonably necessary.

8 Public use: The term “public use” shall only mean: (1) the possession, occupation and
9 enjoyment of the land by the general public, or by public agencies; (2) the use of land for the

10 creation or functioning of public utilities or common carries; or (3) where the use of eminent
11 domain (a)(i) removes a public nuisance, (ii) removes a structure that is beyond repair or unfit
12 for human habitation or use, or (iii) is used to acquire abandoned property in its current
13 condition. The public benefits of economic development, including an increase in tax base, tax
14 revenues, employment and general economic health, shall not constitute a public use.