



# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 58

S.P. 25

In Senate, January 17, 2013

**RESOLUTION, Proposing an Amendment to the Constitution of  
Maine To Restrict the Use of Eminent Domain**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator THOMAS of Somerset.  
Cosponsored by Representative DAVIS of Sangerville and  
Senators: HAMPER of Oxford, SHERMAN of Aroostook, Representatives: CROCKETT of  
Bethel, GIFFORD of Lincoln, STANLEY of Medway.

1           **Constitutional amendment. Resolved:** Two thirds of each branch of the  
2 Legislature concurring, that the following amendment to the Constitution of Maine be  
3 proposed:

4           **Constitution, Art. I, §21** is amended to read:

5           **Section 21. Private property, when to be taken.** Private property ~~shall~~ may  
6 not be taken for public uses without just compensation; nor unless the public exigencies  
7 require it. Property acquired under this section may not be transferred to a person,  
8 nongovernmental entity, public-private partnership, corporation or other business entity  
9 except as provided in this section. If the property has not been used for the purposes for  
10 which it was acquired under this section within 5 years after its acquisition, the property  
11 may not be put to another use or transferred without first offering to the owner from  
12 whom the property was acquired or the heirs of the owner the property at current fair  
13 market value or the amount of just compensation that was provided to the owner,  
14 whichever is lower.

15 ; and be it further

16           **Constitutional referendum procedure; form of question; effective date.**

17 **Resolved:** That the municipal officers of this State shall notify the inhabitants of their  
18 respective cities, towns and plantations to meet, in the manner prescribed by law for  
19 holding a statewide election, at a statewide election held in the month of November  
20 following the passage of this resolution, to vote upon the ratification of the amendment  
21 proposed in this resolution by voting upon the following question:

22           "Do you favor amending the Constitution of Maine to limit the transfer of  
23 property acquired by eminent domain power and to require that an  
24 opportunity be provided for the original owner to repurchase the property  
25 if it is not used for the purpose for which it was acquired?"

26           The legal voters of each city, town and plantation shall vote by ballot on this question  
27 and designate their choice by a cross or check mark placed within the corresponding  
28 square below the word "Yes" or "No." The ballots must be received, sorted, counted and  
29 declared in open ward, town and plantation meetings and returns made to the Secretary of  
30 State in the same manner as votes for members of the Legislature. The Governor shall  
31 review the returns. If it appears that a majority of the legal votes are cast in favor of the  
32 amendment, the Governor shall proclaim that fact without delay and the amendment  
33 becomes part of the Constitution of Maine on the date of the proclamation; and be it  
34 further

35           **Secretary of State shall prepare ballots. Resolved:** That the Secretary of State  
36 shall prepare and furnish to each city, town and plantation all ballots, returns and copies  
37 of this resolution necessary to carry out the purposes of this referendum.

## 38           SUMMARY

39           This resolution proposes to amend the Constitution of Maine in the current  
40 constitutional provision that regulates the acquisition of property through the use of the

1 power of eminent domain. It provides that the property acquired may not be transferred  
2 to a person, nongovernmental entity, public-private partnership, corporation or other  
3 business entity except that, if the property is not used for the purposes for which it was  
4 acquired within 5 years of acquisition, before it may be transferred it must be offered to  
5 the owner or the heirs of the owner from whom the property was acquired at the fair  
6 market price or the amount of just compensation that had been provided to the owner,  
7 whichever is lower.