

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 254 Session of  
1989

INTRODUCED BY CALTAGIRONE, NAHILL, WAMBACH, KOSINSKI, BILLOW,  
NOYE, FOX, McVERRY, HALUSKA, JOSEPHS, SEMMEL, PHILLIPS,  
MORRIS, PISTELLA, DeWEESE, BELARDI, CORRIGAN, COLAIZZO,  
DALEY, VEON, GIGLIOTTI, OLASZ, COLAFELLA, BISHOP, RICHARDSON  
AND HOWLETT FEBRUARY 6, 1989

SENATOR RHOADES, STATE GOVERNMENT, IN SENATE, AS AMENDED,  
MARCH 13, 1989

AN ACT

1 ~~Amending the act of June 22, 1964 (Sp.Sess., P.L.84, No.6),~~ <—  
2 ~~entitled "An act to codify, amend, revise and consolidate the~~  
3 ~~laws relating to eminent domain," further providing for the~~  
4 ~~definition of "displaced person," for moving and related~~  
5 ~~expenses of displaced persons, for replacement housing and~~  
6 ~~for issuance of regulations.~~  
7 AMENDING TITLES 26 (EMINENT DOMAIN), 42 (JUDICIARY AND JUDICIAL <—  
8 PROCEDURE) AND 51 (MILITARY AFFAIRS) OF THE PENNSYLVANIA  
9 CONSOLIDATED STATUTES, ADDING PROVISIONS RELATING TO EMINENT  
10 DOMAIN; AND MAKING REPEALS.

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4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 ~~Section 1. Section 201(5) and (8) of the act of June 22,~~ <—  
7 ~~1964 (Sp.Sess., P.L.84, No.6), known as the Eminent Domain Code,~~  
8 ~~amended December 29, 1971 (P.L.635, No.169), are amended and the~~  
9 ~~section is amended by adding definitions to read:~~

10 ~~Section 201. Definitions. The following words, when used in~~  
11 ~~this act, unless the context clearly indicates otherwise, shall~~  
12 ~~have the meanings ascribed to them in this section:~~

13 \* \* \*

14 ~~(5) "Acquiring agency" means any entity vested with the~~  
15 ~~power of eminent domain by the laws of the Commonwealth,~~  
16 ~~including the Commonwealth. For purposes of Article VI A,~~  
17 ~~"acquiring agency" shall also mean an agency or person carrying~~  
18 ~~out a program or project, funded in whole or in part by the~~  
19 ~~Federal Government, which causes a person to be a displaced~~  
20 ~~person.~~

21 \* \* \*

22 ~~[(8) "Displaced person" means any condemnee or other person~~  
23 ~~not illegally in occupancy of real property who moves or moves~~  
24 ~~his personal property as a result of the acquisition for a~~  
25 ~~program or project of such real property, in whole or in part,~~  
26 ~~or as the result of written notice from the acquiring agency of~~  
27 ~~intent to acquire or order to vacate such real property; and~~  
28 ~~solely for the purpose of subsections (a) and (b)(1) and (b)(4)~~  
29 ~~of section 601 A, as a result of such acquisition or written~~  
30 ~~notice of intent to acquire or order to vacate other real~~

~~property on which such person conducts a business or farm operation.]~~

~~(8) "Displaced person"~~

~~(i) Means:~~

~~(A) Any condemnee or other person who moves from real property or moves his personal property from real property:~~

~~(I) as a direct result of a written notice of intent to acquire or the acquisition of such real property, in whole or in part, for a program or project undertaken by an acquiring agency; or~~

~~(II) on which such person is a residential tenant or conducts a small business, a farm operation or a business as defined in section 201(7)(iv) as a direct result of rehabilitation, demolition, or such other displacing activity as may be prescribed by regulation, under a program or project undertaken by an acquiring agency in any case in which the acquiring agency determines that such displacement is permanent.~~

~~(B) Solely for the purpose of section 601 A(a)(1) and (2) of this act, any person who moves from real property or moves his personal property:~~

~~(I) as a direct result of a written notice of intent to acquire or the acquisition of other real property, in whole or in part, on which such person conducts a business or farm operation, for a program or project undertaken by an acquiring agency; or~~

~~(II) as a direct result of rehabilitation, demolition, or such other displacing activity as may be prescribed by regulation, of other real property on which such person conducts a business or a farm operation, under a program or project undertaken by an acquiring agency where the acquiring agency~~

~~determines that such displacement is permanent.~~

~~(C) A person who was in occupancy of the real property on or before the date of acquisition notwithstanding the termination or expiration of a lease entered into before or after the event giving rise to the displacement.~~

~~(ii) Does not include:~~

~~(A) a person who has been determined, according to criteria established by regulation, to be either unlawfully occupying the displacement dwelling or to have occupied the dwelling for the purpose of obtaining assistance under this act; or~~

~~(B) in any case in which the acquiring agency acquires property for a program or project, a person (other than a person who was an occupant of such property at the time it was acquired) who occupies the property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project.~~

~~\* \* \*~~

~~(13) "Comparable replacement dwelling" means a dwelling that is:~~

~~(i) decent, safe and sanitary;~~

~~(ii) adequate in size to accommodate the occupants;~~

~~(iii) within the financial means of the displaced person;~~

~~(iv) functionally equivalent;~~

~~(v) in an area not subject to unreasonable adverse environmental conditions; and~~

~~(vi) in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services and the displaced person's place of employment.~~

~~(14) "Small business" means a business having not more than~~

1 ~~five hundred employees working at the site being acquired or~~  
2 ~~permanently displaced by a program or project.~~

3 ~~Section 2. Sections 601 A, 602 A, 603 A and 604 A, added~~  
4 ~~December 29, 1971 (P.L.635, No.169), are amended to read:~~

5 ~~Section 601 A. Moving and Related Expenses of Displaced~~  
6 ~~Persons. (a) Any displaced person shall be reimbursed for~~  
7 ~~reasonable expenses incurred in moving himself and his family~~  
8 ~~and for the removal, transportation, and reinstallation of~~  
9 ~~personal property.~~

10 ~~(1) Receipts therefor shall be prima facie evidence of~~  
11 ~~incurred reasonable moving expenses.~~

12 ~~(2) Any displaced person who is displaced from a dwelling~~  
13 ~~may elect to receive, in lieu of reimbursement of incurred~~  
14 ~~moving expenses, a moving expense and dislocation allowance,~~  
15 ~~determined [according to a schedule established by the acquiring~~  
16 ~~agency, not to exceed three hundred dollars (\$300), and a~~  
17 ~~dislocation allowance of two hundred dollars (\$200)] in~~  
18 ~~accordance with regulations promulgated under this act.~~

19 ~~(b) Any displaced person who is displaced from his place of~~  
20 ~~business or from his farm operation shall be entitled, in~~  
21 ~~addition to any payment received under subsection (a) of this~~  
22 ~~section, to damages for dislocation of such business or farm~~  
23 ~~operation as follows:~~

24 ~~(1) Actual direct losses with reference to personal~~  
25 ~~property, but not to exceed the greater of (i) the reasonable~~  
26 ~~expenses which would have been required to relocate such~~  
27 ~~personal property, or (ii) the value in place of such personal~~  
28 ~~property as cannot be moved without substantially destroying or~~  
29 ~~diminishing its value, whether because of the unavailability of~~  
30 ~~a comparable site for relocation or otherwise, or without~~

~~substantially destroying or diminishing its utility in the  
relocated business or farm operation.~~

~~(2) In lieu of the damages provided in clause (1) hereof, at  
the option of the displaced person, an amount not to exceed ten  
thousand dollars (\$10,000) to be determined by taking fifty per  
cent of the difference if any, between the original cost of the  
personal property to the displaced person or the replacement  
cost of equivalent property at the time of sale, whichever is  
lower, and the net proceeds obtained by the displaced person at  
a commercially reasonable private or public sale. If this option  
is selected, the displaced person shall give the acquiring  
agency not less than sixty days notice in writing of his  
intention to seek damages under this option. The displaced  
person shall not, directly or indirectly, purchase any of the  
personal property at private sale. Inventory shall be paid for  
under this option only if the business is not relocated.~~

~~{(3) In addition to damages under clauses (1) or (2) of this  
subsection, damages of not more than ten thousand dollars  
(\$10,000) nor less than twenty five hundred dollars (\$2,500), in  
an amount equal to either (i) forty times the actual monthly  
rental, in the case of a tenant, or forty times the fair monthly  
rental value, in the case of owner occupancy; or (ii) the  
average annual net earnings, whichever is greater. For the  
purposes of this subsection, the term "average annual net  
earnings" means one half of any net earnings of the business or  
farm operation before Federal, State, and local income taxes,  
during the two taxable years immediately preceding the taxable  
year in which such business or farm operation moves from the  
real property acquired for such project, and includes any  
compensation paid by the business or farm operation to the~~



1 owner, his spouse, or his dependents during such period. The  
2 regulations promulgated under section 604 A may designate  
3 another period determined to be more equitable for establishing  
4 average annual net earnings, provided the designation of such  
5 period does not produce a lesser payment than would use of the  
6 last two taxable years. In the case of a business, payment shall  
7 be made under this subsection only if the business (i) cannot be  
8 relocated without a substantial loss of its existing patronage,  
9 and (ii) is not a part of a commercial enterprise having at  
10 least one other establishment not being acquired by the  
11 acquiring agency, which is engaged in the same or similar  
12 business.

13 ~~(4) In addition to damages under clauses (1) or (2) and (3)~~  
14 ~~of this subsection, actual reasonable expenses incurred in~~  
15 ~~searching for a replacement business or farm.]~~

16 ~~(3) Actual reasonable expenses in searching for a~~  
17 ~~replacement business or farm determined in accordance with~~  
18 ~~regulations promulgated under this act.~~

19 ~~(4) Actual reasonable expenses necessary to reestablish a~~  
20 ~~displaced farm, nonprofit organization or small business at its~~  
21 ~~new site, in accordance with criteria to be established by~~  
22 ~~regulation, but not to exceed ten thousand dollars (\$10,000).~~

23 ~~(5) In lieu of damages under subsection (a) and clause (1),~~  
24 ~~(2), (3) or (4) of this subsection, damages in an amount equal~~  
25 ~~to the average annual net earnings but not more than twenty~~  
26 ~~thousand dollars (\$20,000) nor less than one thousand dollars~~  
27 ~~(\$1,000). The term "average annual net earnings" means one half~~  
28 ~~of any net earnings of the business or farm operation before~~  
29 ~~Federal, State and local income taxes during the two taxable~~  
30 ~~years immediately preceding the taxable year in which the~~

~~1 business or farm operation moves from the real property acquired  
2 for a project, and includes any compensation paid by the  
3 business or farm operation to the owner, his spouse or his  
4 dependents during this period. The regulations promulgated under  
5 section 604 A of this act may designate another period  
6 determined to be more equitable for establishing average annual  
7 net earnings provided the designation of the period does not  
8 produce a lesser payment than would use of the last two taxable  
9 years. Payment shall be made only if the business cannot be  
10 relocated without a substantial loss of profits. A person whose  
11 sole business at a dwelling from which he is displaced is the  
12 rental of such property to others shall not qualify for a  
13 payment under this clause.~~

~~14 Section 602 A. Replacement Housing for Homeowners. (a) In  
15 addition to payments otherwise authorized, the acquiring agency  
16 shall make an additional payment not in excess of [fifteen  
17 thousand dollars (\$15,000)] twenty two thousand five hundred  
18 dollars (\$22,500) to any displaced person who is displaced from  
19 a dwelling actually owned and occupied by such displaced person  
20 for not less than one hundred eighty days prior to the  
21 initiation of negotiations for the acquisition of the property  
22 or the receipt of written notice from the acquiring agency of  
23 intent to acquire or order to vacate. Such additional payment  
24 shall include the following elements:~~

~~25 (1) The amount, if any, which, when added to the acquisition  
26 cost of the acquired dwelling, equals the reasonable cost of a  
27 comparable replacement dwelling which is [a decent, safe, and  
28 sanitary dwelling adequate to accommodate such displaced person,  
29 reasonably accessible to public services and his place of  
30 employment and] available to such displaced person on the~~

1 ~~private market.~~

2 ~~(2) The amount, if any, [as hereinafter provided,] which~~  
3 ~~will compensate such displaced person for any increased interest~~  
4 ~~and other debt service costs, which such person is required to~~  
5 ~~pay for financing the acquisition of any such comparable~~  
6 ~~replacement dwelling. [Such amount shall be equal to the excess~~  
7 ~~in the aggregate interest and other debt service costs of that~~  
8 ~~amount on the principal of the installment purchase contract,~~  
9 ~~mortgage or other evidence of debt on the replacement dwelling~~  
10 ~~which is equal to the unpaid balance of the installment purchase~~  
11 ~~contract, mortgage or other evidence of debt on the acquired~~  
12 ~~dwelling over the remaining term of the installment purchase~~  
13 ~~contract, mortgage or other evidence of debt on the acquired~~  
14 ~~dwelling reduced to discounted present value. The discount rate~~  
15 ~~shall be the prevailing interest rate paid on savings deposits~~  
16 ~~by commercial banks in the general area in which the replacement~~  
17 ~~dwelling is located.] Such amount shall be paid only if the~~  
18 ~~acquired dwelling was subject to an installment purchase~~  
19 ~~contract or encumbered by a bona fide installment purchase~~  
20 ~~contract, mortgage or other evidence of debt secured by the~~  
21 ~~dwelling which was a valid lien on such dwelling for not less~~  
22 ~~than one hundred eighty days immediately prior to the initiation~~  
23 ~~of negotiations for the acquisition of such dwelling.~~

24 ~~(3) Reasonable expenses incurred by such displaced person~~  
25 ~~for evidence of title, recording and attorney fees, real~~  
26 ~~property transfer taxes, and other closing and related costs~~  
27 ~~incident to the purchase and financing of the replacement~~  
28 ~~dwelling, but not including prepaid expenses.~~

29 ~~(b) The additional payment authorized by this section shall~~  
30 ~~be made only to such a displaced person who purchases and~~

1 ~~occupies a replacement dwelling, which is decent, safe,~~  
2 ~~sanitary, and adequate to accommodate such displaced person, not~~  
3 ~~later than the end of the one year period beginning on the date~~  
4 ~~on which he receives final payment of his full acquisition cost~~  
5 ~~for the acquired dwelling, or on the date on which he moves from~~  
6 ~~the acquired dwelling, whichever is the later date. Regulations~~  
7 ~~issued pursuant to section 604 A may prescribe situations when~~  
8 ~~such one year period may be extended. If the period is extended,~~  
9 ~~the payment under this section shall be based on the costs of~~  
10 ~~relocating the person to a comparable replacement dwelling~~  
11 ~~within one year of the date on which he received final payment~~  
12 ~~of his full acquisition cost for the acquired dwelling.~~

13 ~~(c) The person entitled under this section shall have the~~  
14 ~~right to elect the benefits available under section 603 A in~~  
15 ~~lieu of those provided by this section.~~

16 ~~Section 603 A. Replacement Housing for Tenants and Others.—~~

17 ~~(a) (1) In addition to amounts otherwise authorized, an~~  
18 ~~acquiring agency shall make a payment to or for any displaced~~  
19 ~~person displaced from a dwelling not eligible to receive a~~  
20 ~~payment under section 602 A which dwelling was actually and~~  
21 ~~lawfully occupied by such displaced person for not less than~~  
22 ~~ninety days prior to the initiation of negotiations for~~  
23 ~~acquisition of such dwelling or the receipt of written notice~~  
24 ~~from the acquiring agency of intent to acquire or order to~~  
25 ~~vacate. Such payment shall be [either:~~

26 ~~(1) The] the amount determined to be necessary to enable~~  
27 ~~such displaced person to lease for a period not to exceed [four~~  
28 ~~years] forty two months a [decent, safe, and sanitary]~~  
29 ~~comparable replacement dwelling [adequate to accommodate such~~  
30 ~~person in areas not generally less desirable in regard to public~~

1 ~~utilities and public and commercial facilities, and reasonably~~  
2 ~~accessible to his place of employment]. Such amount shall be the~~  
3 ~~additional amount, if any, over the actual rental or fair rental~~  
4 ~~value of the acquired dwelling as determined in accordance with~~  
5 ~~regulations promulgated under section 604 A but not to exceed~~  
6 ~~{four thousand dollars (\$4,000); or~~

7 ~~(2) The amount necessary to enable such person to make a~~  
8 ~~down payment, which shall mean the equity payment in excess of~~  
9 ~~the maximum amount of conventional financing available to such~~  
10 ~~displaced person, plus those expenses described in section 602-~~  
11 ~~A(a)(3), on the purchase of a decent, safe, and sanitary~~  
12 ~~dwelling adequate to accommodate such person in areas not~~  
13 ~~generally less desirable in regard to public utilities and~~  
14 ~~public and commercial facilities, but not to exceed four~~  
15 ~~thousand dollars (\$4,000), except that if such amount exceeds~~  
16 ~~two thousand dollars (\$2,000) such person must equally match~~  
17 ~~such amount in excess of two thousand dollars (\$2,000) in making~~  
18 ~~the down payment] five thousand two hundred fifty dollars~~  
19 ~~(\$5,250).~~

20 ~~(2) Any person eligible for a payment under clause (1) may~~  
21 ~~elect to apply the payment to a down payment on, and other~~  
22 ~~incidental expenses pursuant to, the purchase of a decent, safe,~~  
23 ~~and sanitary replacement dwelling.~~

24 ~~(b) The additional payment authorized by this section shall~~  
25 ~~be made only to such a displaced person who occupies a~~  
26 ~~replacement dwelling which is decent, safe[, ] and sanitary[, and~~  
27 ~~adequate to accommodate such displaced person].~~

28 ~~Section 604 A. Issuance of Regulations to Implement this~~  
29 ~~Article. The [Attorney General] Office of General Counsel shall~~  
30 ~~promulgate such rules and regulations as may be necessary to~~

1 assure;

2 ~~(1) That the payments authorized by this article shall be~~  
3 ~~made in a manner which is fair and reasonable, and as uniform as~~  
4 ~~practicable;~~

5 ~~(2) That a displaced person who makes proper application for~~  
6 ~~a payment authorized for such person by this article shall be~~  
7 ~~paid promptly after a move or, in hardship cases, be paid in~~  
8 ~~advance;~~

9 ~~(3) That any person aggrieved by a determination as to~~  
10 ~~eligibility for a payment authorized by this article, or the~~  
11 ~~amount of a payment, may elect to have his application reviewed~~  
12 ~~by the head of the acquiring agency or his designee;~~

13 ~~(4) That each displaced person shall receive the maximum~~  
14 ~~payments authorized by this article; and~~

15 ~~(5) That each acquiring agency may obtain the maximum~~  
16 ~~Federal reimbursement for relocation payment and assistance~~  
17 ~~costs authorized by any Federal law.~~

18 ~~Section 3. If this act is enacted after April 1, 1989, it~~  
19 ~~shall be applied retroactively to April 1, 1989.~~

20 ~~Section 4. This act shall take effect as follows:~~

21 ~~(1) Section 2 (section 601 A(2)) shall take effect on~~  
22 ~~the effective date of the regulations promulgated by the~~  
23 ~~Office of General Counsel under section 2 (section 604 A).~~

24 ~~(2) The remainder of this act shall take effect~~  
25 ~~immediately.~~

26 SECTION 1. TITLE 26 OF THE PENNSYLVANIA CONSOLIDATED  
27 STATUTES IS AMENDED BY ADDING CHAPTERS TO READ:

28 TITLE 26  
29 EMINENT DOMAIN  
30 CHAPTER

<—



1 "ACQUIRING AGENCY." ANY ENTITY, INCLUDING THE COMMONWEALTH,  
2 VESTED WITH THE POWER OF EMINENT DOMAIN BY THE LAWS OF THIS  
3 COMMONWEALTH. FOR THE PURPOSES OF CHAPTER 9 (RELATING TO SPECIAL  
4 DAMAGES FOR DISPLACEMENT), THE TERM ALSO INCLUDES OTHER AGENCIES  
5 OR PERSONS WHICH ARE CARRYING OUT A PROGRAM OR PROJECT TO THE  
6 EXTENT THAT THEY CAUSE A PERSON TO BECOME A DISPLACED PERSON.

7 "ACQUISITION COST." GENERAL DAMAGES OR, IN THE EVENT OF  
8 AMICABLE ACQUISITION, THE PRICE PAID BY THE ACQUIRING AGENCY.

9 "BUSINESS." ANY LAWFUL ACTIVITY, EXCEPT A FARM OPERATION,  
10 CONDUCTED:

11 (1) PRIMARILY FOR THE PURCHASE, SALE, LEASE OR RENTAL OF  
12 PERSONAL OR REAL PROPERTY OR FOR THE MANUFACTURE, PROCESSING  
13 OR MARKETING OF PRODUCTS, COMMODITIES OR ANY OTHER PERSONAL  
14 PROPERTY;

15 (2) PRIMARILY FOR THE SALE OF SERVICES TO THE PUBLIC;

16 (3) BY A NONPROFIT ORGANIZATION; OR

17 (4) SOLELY FOR THE PURPOSE OF QUALIFICATION FOR DAMAGES  
18 UNDER SECTION 901(A) AND (B)(1) AND (5) (RELATING TO MOVING  
19 AND RELATED EXPENSES OF DISPLACED PERSONS) FOR ASSISTING IN  
20 THE PURCHASE, SALE, RESALE, MANUFACTURE, PROCESSING OR  
21 MARKETING OF PRODUCTS, COMMODITIES, PERSONAL PROPERTY OR  
22 SERVICES BY THE ERECTION AND MAINTENANCE OF AN OUTDOOR  
23 ADVERTISING DISPLAY WHETHER OR NOT THE DISPLAY IS LOCATED ON  
24 THE PREMISES ON WHICH ANY OF THE ABOVE ACTIVITIES ARE  
25 CONDUCTED.

26 "COMPARABLE REPLACEMENT DWELLING." A DWELLING THAT IS:

27 (1) DECENT, SAFE AND SANITARY.

28 (2) ADEQUATE IN SIZE TO ACCOMMODATE THE OCCUPANTS.

29 (3) WITHIN THE FINANCIAL MEANS OF THE DISPLACED PERSON.

30 (4) FUNCTIONALLY EQUIVALENT.



(5) IN AN AREA NOT SUBJECT TO UNREASONABLE ADVERSE ENVIRONMENTAL CONDITIONS.

(6) IN A LOCATION GENERALLY NOT LESS DESIRABLE THAN THE LOCATION OF THE DISPLACED PERSON'S DWELLING WITH RESPECT TO PUBLIC UTILITIES, FACILITIES, SERVICES AND THE DISPLACED PERSON'S PLACE OF EMPLOYMENT.

"CONDEMN." TO TAKE, INJURE OR DESTROY PROPERTY BY AUTHORITY OF LAW FOR A PUBLIC PURPOSE.

"CONDEMNEE." THE OWNER OF A PROPERTY INTEREST TAKEN, INJURED OR DESTROYED. THE TERM DOES NOT INCLUDE A MORTGAGEE, JUDGMENT CREDITOR OR OTHER LIENHOLDER.

"CONDEMNOR." THE ACQUIRING AGENCY, INCLUDING THE COMMONWEALTH, THAT TAKES, INJURES OR DESTROYS PROPERTY BY AUTHORITY OF LAW FOR A PUBLIC PURPOSE.

"COURT." THE COURT OF COMMON PLEAS.

"DISPLACED PERSON."

(1) ANY CONDEMNEE OR OTHER PERSON WHO MOVES FROM REAL PROPERTY OR MOVES HIS PERSONAL PROPERTY FROM REAL PROPERTY:

(I) AS A DIRECT RESULT OF A WRITTEN NOTICE OF INTENT TO ACQUIRE OR THE ACQUISITION OF THE REAL PROPERTY, IN WHOLE OR IN PART, FOR A PROGRAM OR PROJECT UNDERTAKEN BY AN ACQUIRING AGENCY; OR

(II) ON WHICH SUCH PERSON IS A RESIDENTIAL TENANT OR CONDUCTS A SMALL BUSINESS, A FARM OPERATION OR A BUSINESS AS DEFINED IN PARAGRAPH (4) OF THE DEFINITION OF "BUSINESS" AS A DIRECT RESULT OF REHABILITATION, DEMOLITION OR OTHER DISPLACING ACTIVITY FOR A PROGRAM OR PROJECT UNDERTAKEN BY AN ACQUIRING AGENCY IF THE DISPLACEMENT IS PERMANENT.

(2) SOLELY FOR THE PURPOSE OF SECTION 901(A)(1) AND (2)

1 (RELATING TO MOVING AND RELATED EXPENSES OF DISPLACED  
2 PERSONS), ANY PERSON WHO MOVES FROM REAL PROPERTY OR MOVES  
3 HIS PERSONAL PROPERTY:

4 (I) AS A DIRECT RESULT OF A WRITTEN NOTICE OF INTENT  
5 TO ACQUIRE OR THE ACQUISITION OF OTHER REAL PROPERTY, IN  
6 WHOLE OR IN PART, ON WHICH THE PERSON CONDUCTS A BUSINESS  
7 OR FARM OPERATION FOR A PROGRAM OR PROJECT UNDERTAKEN BY  
8 AN ACQUIRING AGENCY; OR

9 (II) AS A DIRECT RESULT OF REHABILITATION,  
10 DEMOLITION OR OTHER DISPLACING ACTIVITY OF OTHER REAL  
11 PROPERTY ON WHICH SUCH PERSON CONDUCTS A BUSINESS OR A  
12 FARM OPERATION UNDER A PROGRAM OR PROJECT UNDERTAKEN BY  
13 AN ACQUIRING AGENCY IF THE DISPLACEMENT IS PERMANENT.

14 (3) A PERSON WHO WAS IN OCCUPANCY OF THE REAL PROPERTY  
15 ON OR BEFORE THE DATE OF ACQUISITION, NOTWITHSTANDING THE  
16 TERMINATION OR EXPIRATION OF A LEASE ENTERED INTO BEFORE OR  
17 AFTER THE EVENT GIVING RISE TO THE DISPLACEMENT.

18 (4) A DISPLACED PERSON SHALL NOT INCLUDE:

19 (I) A PERSON WHO UNLAWFULLY OCCUPIES THE  
20 DISPLACEMENT DWELLING OR OCCUPIED THE DWELLING FOR THE  
21 PURPOSE OF OBTAINING ASSISTANCE UNDER THIS TITLE.

22 (II) IN ANY CASE IN WHICH THE ACQUIRING AGENCY  
23 ACQUIRES REAL PROPERTY FOR A PROGRAM OR PROJECT, A  
24 PERSON, OTHER THAN A PERSON WHO WAS AN OCCUPANT OF THE  
25 PROPERTY AT THE TIME IT WAS ACQUIRED, WHO OCCUPIES THE  
26 PROPERTY ON A RENTAL BASIS FOR A SHORT TERM OR A PERIOD  
27 SUBJECT TO TERMINATION WHEN THE PROPERTY IS NEEDED FOR  
28 THE PROGRAM OR PROJECT.

29 "FARM OPERATION." ANY ACTIVITY CONDUCTED SOLELY OR PRIMARILY  
30 FOR THE PRODUCTION OF ONE OR MORE AGRICULTURAL PRODUCTS OR

1 COMMODITIES, INCLUDING TIMBER, FOR SALE OR HOME USE AND  
2 CUSTOMARILY PRODUCING THESE PRODUCTS OR COMMODITIES IN  
3 SUFFICIENT QUANTITY TO BE CAPABLE OF CONTRIBUTING MATERIALLY TO  
4 THE OPERATOR'S SUPPORT.

5 "NATURAL DISASTER." A DISASTER OFFICIALLY DECLARED AS A  
6 NATURAL DISASTER BY THE GOVERNOR.

7 "PERSONAL PROPERTY." ANY TANGIBLE PROPERTY NOT CONSIDERED TO  
8 BE REAL PROPERTY FOR PURPOSES OF GENERAL DAMAGES UNDER THE LAWS  
9 OF THIS COMMONWEALTH.

10 "PROGRAM OR PROJECT." ANY PROGRAM OR PROJECT UNDERTAKEN BY  
11 OR FOR AN ACQUIRING AGENCY AS TO WHICH IT HAS THE AUTHORITY TO  
12 EXERCISE THE POWER OF EMINENT DOMAIN.

13 "SMALL BUSINESS." A BUSINESS HAVING NOT MORE THAN 500  
14 EMPLOYEES WORKING AT THE SITE BEING ACQUIRED OR PERMANENTLY  
15 DISPLACED BY A PROGRAM OR PROJECT.

16 CHAPTER 3

17 PROCEDURE TO CONDEMN

18 SEC.

19 301. VENUE.

20 302. DECLARATION OF TAKING.

21 303. SECURITY REQUIRED.

22 304. RECORDING NOTICE OF CONDEMNATION.

23 305. NOTICE TO CONDEMNEE.

24 306. PRELIMINARY OBJECTIONS.

25 307. POSSESSION, RIGHT OF ENTRY AND PAYMENT OF COMPENSATION.

26 308. REVOCATION OF CONDEMNATION PROCEEDINGS.

27 309. RIGHT TO ENTER PROPERTY PRIOR TO CONDEMNATION.

28 310. ABANDONMENT OF PROJECT.

29 § 301. VENUE.

30 ALL CONDEMNATION PROCEEDINGS SHALL BE BROUGHT IN THE COURT OF

1 THE COUNTY IN WHICH THE PROPERTY IS LOCATED OR, IF THE PROPERTY  
2 IS LOCATED IN TWO OR MORE COUNTIES, IN THE COURT OF ANY ONE OF  
3 THE COUNTIES. WHERE THE PROPERTY IS LOCATED IN TWO OR MORE  
4 COUNTIES AND A PROCEEDING IS COMMENCED IN THE COURT OF ONE OF  
5 THE COUNTIES, ALL SUBSEQUENT PROCEEDINGS REGARDING THE SAME  
6 PROPERTY SHALL BE BROUGHT IN THE SAME COUNTY.

7 § 302. DECLARATION OF TAKING.

8 (A) CONDEMNATION AND PASSAGE OF TITLE.--CONDEMNATION UNDER  
9 THE POWER OF CONDEMNATION GIVEN BY LAW TO A CONDEMNOR SHALL BE  
10 EFFECTED ONLY BY THE FILING IN COURT OF A DECLARATION OF TAKING  
11 WITH THE SECURITY REQUIRED UNDER SECTION 303(A) (RELATING TO  
12 SECURITY REQUIRED). THE TITLE WHICH THE CONDEMNOR ACQUIRES IN  
13 THE PROPERTY CONDEMNED SHALL PASS TO THE CONDEMNOR ON THE DATE  
14 OF THE FILING AND THE CONDEMNOR SHALL BE ENTITLED TO POSSESSION  
15 UNDER SECTION 307 (RELATING TO POSSESSION, RIGHT OF ENTRY AND  
16 PAYMENT OF COMPENSATION).

17 (B) CONTENTS.--THE DECLARATION OF TAKING SHALL BE IN WRITING  
18 AND EXECUTED BY THE CONDEMNOR AND SHALL BE CAPTIONED AS A  
19 PROCEEDING IN REM AND CONTAIN THE FOLLOWING:

20 (1) THE NAME AND ADDRESS OF THE CONDEMNOR.

21 (2) A SPECIFIC REFERENCE TO THE STATUTE AND SECTION  
22 UNDER WHICH THE CONDEMNATION IS AUTHORIZED.

23 (3) A SPECIFIC REFERENCE TO THE ACTION, WHETHER BY  
24 ORDINANCE, RESOLUTION OR OTHERWISE, BY WHICH THE DECLARATION  
25 OF TAKING WAS AUTHORIZED, INCLUDING THE DATE WHEN THE ACTION  
26 WAS TAKEN AND THE PLACE WHERE THE RECORD MAY BE EXAMINED.

27 (4) A BRIEF DESCRIPTION OF THE PURPOSE OF THE  
28 CONDEMNATION.

29 (5) A DESCRIPTION OF THE PROPERTY CONDEMNED SUFFICIENT  
30 FOR IDENTIFICATION, SPECIFYING THE MUNICIPAL CORPORATION AND

1 THE COUNTY OR COUNTIES WHERE THE PROPERTY TAKEN IS LOCATED, A  
2 REFERENCE TO THE PLACE OF RECORDING IN THE OFFICE OF THE  
3 RECORDER OF DEEDS OF PLANS SHOWING THE PROPERTY CONDEMNED OR  
4 A STATEMENT THAT PLANS SHOWING THE PROPERTY CONDEMNED ARE ON  
5 THE SAME DAY BEING LODGED FOR RECORD OR FILED IN THE OFFICE  
6 OF THE RECORDER OF DEEDS IN THE COUNTY IN ACCORDANCE WITH  
7 SECTION 304 (RELATING TO RECORDING NOTICE OF CONDEMNATION).

8 (6) A STATEMENT OF THE NATURE OF THE TITLE ACQUIRED, IF  
9 ANY.

10 (7) A STATEMENT SPECIFYING WHERE A PLAN SHOWING THE  
11 CONDEMNED PROPERTY MAY BE INSPECTED IN THE COUNTY IN WHICH  
12 THE PROPERTY TAKEN IS LOCATED.

13 (8) A STATEMENT OF HOW JUST COMPENSATION HAS BEEN MADE  
14 OR SECURED.

15 (C) MORE THAN ONE PROPERTY INCLUDED IN DECLARATION.--THE  
16 CONDEMNOR MAY INCLUDE IN ONE DECLARATION OF TAKING ANY OR ALL OF  
17 THE PROPERTIES SPECIFIED IN THE ACTION BY WHICH THE DECLARATION  
18 OF TAKING WAS AUTHORIZED.

19 (D) FEE.--THE PROTHONOTARY SHALL CHARGE ONE FEE FOR FILING  
20 EACH DECLARATION OF TAKING, WHICH SHALL BE THE SAME REGARDLESS  
21 OF THE NUMBER OF PROPERTIES OR CONDEMNEDS INCLUDED.

22 (E) FILING.--THE CONDEMNOR SHALL FILE, WITHIN ONE YEAR OF  
23 THE ACTION AUTHORIZING THE DECLARATION OF TAKING, A DECLARATION  
24 OF TAKING COVERING ALL PROPERTIES INCLUDED IN THE AUTHORIZATION  
25 NOT OTHERWISE ACQUIRED BY THE CONDEMNOR WITHIN THIS TIME.

26 § 303. SECURITY REQUIRED.

27 (A) BOND.--EXCEPT AS PROVIDED IN SUBSECTION (B), EVERY  
28 CONDEMNOR SHALL GIVE SECURITY TO EFFECT THE CONDEMNATION BY  
29 FILING WITH THE DECLARATION OF TAKING ITS BOND, WITHOUT SURETY,  
30 TO THE COMMONWEALTH FOR THE USE OF THE OWNER OF THE PROPERTY

1 INTERESTS CONDEMNED, THE CONDITION OF WHICH SHALL BE THAT THE  
2 CONDEMNOR SHALL PAY THE DAMAGES DETERMINED BY LAW.

3 (B) PLEDGE OF TAX REVENUES.--WHERE A CONDEMNOR HAS THE POWER  
4 OF TAXATION, IT SHALL NOT BE REQUIRED TO FILE A BOND WITH THE  
5 DECLARATION OF TAKING. THE FUNDS RAISED, OR AUTHORIZED BY LAW TO  
6 BE RAISED, BY THE POWER OF TAXATION OF THE CONDEMNOR SHALL BE  
7 DEEMED PLEDGED AND ARE MADE SECURITY FOR THE PAYMENT OF THE  
8 DAMAGES DETERMINED BY LAW.

9 (C) INSUFFICIENT SECURITY.--THE COURT, UPON PRELIMINARY  
10 OBJECTIONS OF THE CONDEMNEE UNDER AND WITHIN THE TIME SET FORTH  
11 IN SECTION 306(A) (RELATING TO PRELIMINARY OBJECTIONS), MAY  
12 REQUIRE THE CONDEMNOR TO GIVE BOND AND SECURITY AS THE COURT  
13 DEEMS PROPER IF IT APPEARS TO THE COURT THAT THE BOND OR POWER  
14 OF TAXATION OF THE CONDEMNOR IS NOT SUFFICIENT SECURITY.

15 § 304. RECORDING NOTICE OF CONDEMNATION.

16 (A) COUNTY OF RECORDING.--THE CONDEMNOR, UPON FILING ITS  
17 DECLARATION OF TAKING, SHALL ON THE SAME DAY LODGE FOR RECORD A  
18 NOTICE OF THE DECLARATION IN THE OFFICE OF THE RECORDER OF DEEDS  
19 OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED. IF THE PROPERTY  
20 IS LOCATED IN TWO OR MORE COUNTIES, THE NOTICE SHALL BE RECORDED  
21 IN EACH COUNTY.

22 (B) NOTICE AND RECORDING REQUIREMENTS.--THE NOTICE SHALL  
23 SPECIFY THE COURT TERM AND NUMBER OF THE DECLARATION OF TAKING  
24 AND THE DATE IT WAS FILED, AND SHALL CONTAIN A DESCRIPTION OR  
25 PLAN OF THE PROPERTY CONDEMNED SUFFICIENT FOR IDENTIFICATION AND  
26 THE NAMES OF THE OWNERS OF THE PROPERTY INTERESTS CONDEMNED, AS  
27 REASONABLY KNOWN TO THE CONDEMNOR, AND SHALL BE INDEXED IN THE  
28 DEED INDICES SHOWING THE CONDEMNEE SET FORTH IN THE NOTICE AS  
29 GRANTOR AND THE CONDEMNOR AS GRANTEE. IF PLANS ARE TO BE  
30 RECORDED AS PART OF THE NOTICE, THEY SHALL BE SUBMITTED ON

1 STANDARD LEGAL SIZE PAPER. IF PLANS ARE TO BE FILED AS PART OF  
2 THE NOTICE, THEY SHALL BE IN LEGIBLE SCALE AND FILED IN A  
3 CONDEMNATION BOOK OR FILE OR MICROFILMED, WITH A NOTATION AS TO  
4 THE CONDEMNATION BOOK AND PAGE NUMBER, FILE NUMBER OR MICROFILM  
5 NUMBER TO BE MADE BY THE RECORDER ON THE MARGIN OF THE NOTICE.  
6 UPON THE NOTICE BEING ASSIGNED A BOOK AND PAGE NUMBER BY THE  
7 RECORDER OF DEEDS, THE CONDEMNOR SHALL FILE WITH THE  
8 PROTHONOTARY, UNDER THE CAPTION OF THE DECLARATION OF TAKING, A  
9 MEMORANDUM OF THE BOOK AND PAGE NUMBER IN WHICH THE NOTICE IS  
10 RECORDED.

11 (C) FEES.--THE RECORDER SHALL RECEIVE AS A FEE FOR RECORDING  
12 EACH NOTICE THE SUM OF \$5 PLUS \$1 FOR EACH PAGE RECORDED AFTER  
13 THE FIRST AND FOR FILING PLANS \$2.50 FOR EACH PAGE OR SHEET OF  
14 PLAN FILED AND 25¢ FOR EACH NAME INDEXED.

15 § 305. NOTICE TO CONDEMNEE.

16 (A) WRITTEN NOTICE.--WITHIN 30 DAYS AFTER THE FILING OF THE  
17 DECLARATION OF TAKING, THE CONDEMNOR SHALL GIVE WRITTEN NOTICE  
18 OF THE FILING TO THE CONDEMNEE AND MORTGAGEES AND OTHER  
19 LIENHOLDERS OF RECORD.

20 (B) SERVICE.--THE NOTICE SHALL BE SERVED WITHIN OR WITHOUT  
21 THIS COMMONWEALTH, BY ANY COMPETENT ADULT, IN THE SAME MANNER AS  
22 IN A CIVIL ACTION OR BY REGISTERED MAIL TO THE LAST KNOWN  
23 ADDRESS OF THE CONDEMNEE AND MORTGAGEES AND OTHER LIENHOLDERS OF  
24 RECORD. IF SERVICE CANNOT BE MADE IN THIS MANNER, THEN SERVICE  
25 SHALL BE MADE BY POSTING A COPY OF THE NOTICE UPON THE MOST  
26 PUBLIC PART OF THE PROPERTY AND BY PUBLICATION OF A COPY OF THE  
27 NOTICE, OMITTING THE PLOT PLAN REQUIRED BY SUBSECTION (C)(8),  
28 ONE TIME EACH IN ONE NEWSPAPER OF GENERAL CIRCULATION AND THE  
29 LEGAL JOURNAL, IF ANY, PUBLISHED IN THE COUNTY.

30 (C) CONTENTS.--THE NOTICE TO BE GIVEN THE CONDEMNEE SHALL

1 STATE:

2 (1) THE CAPTION OF THE CASE.

3 (2) THE DATE OF FILING OF THE DECLARATION OF TAKING AND  
4 THE COURT TERM AND NUMBER.

5 (3) THE NAME OF THE CONDEMNEE TO WHOM IT IS DIRECTED.

6 (4) THE NAME AND ADDRESS OF THE CONDEMNOR.

7 (5) A SPECIFIC REFERENCE TO THE STATUTE AND SECTION  
8 UNDER WHICH THE CONDEMNATION ACTION IS AUTHORIZED.

9 (6) A SPECIFIC REFERENCE TO THE ACTION, WHETHER BY  
10 ORDINANCE, RESOLUTION OR OTHERWISE, BY WHICH THE DECLARATION  
11 OF TAKING WAS AUTHORIZED, INCLUDING THE DATE WHEN THE ACTION  
12 WAS TAKEN AND THE PLACE WHERE THE RECORD MAY BE EXAMINED.

13 (7) A BRIEF DESCRIPTION OF THE PURPOSE OF THE  
14 CONDEMNATION.

15 (8) A STATEMENT THAT THE CONDEMNEE'S PROPERTY HAS BEEN  
16 CONDEMNED AND A REASONABLE IDENTIFICATION OF THE PROPERTY IN  
17 THE CASE OF A TOTAL TAKING AND, IN THE CASE OF A PARTIAL  
18 TAKING, A PLOT PLAN SHOWING THE CONDEMNEE'S ENTIRE PROPERTY  
19 AND THE AREA TAKEN.

20 (9) A STATEMENT OF THE NATURE OF THE TITLE ACQUIRED.

21 (10) A STATEMENT SPECIFYING WHERE A PLAN SHOWING THE  
22 CONDEMNED PROPERTY MAY BE INSPECTED IN THE COUNTY IN WHICH  
23 THE PROPERTY TAKEN IS LOCATED.

24 (11) A STATEMENT OF HOW JUST COMPENSATION HAS BEEN MADE  
25 OR SECURED.

26 (12) A STATEMENT THAT, IF THE CONDEMNEE WISHES TO  
27 CHALLENGE THE POWER OR THE RIGHT OF THE CONDEMNOR TO  
28 APPROPRIATE THE CONDEMNED PROPERTY, THE SUFFICIENCY OF THE  
29 SECURITY, THE PROCEDURE FOLLOWED BY THE CONDEMNOR OR THE  
30 DECLARATION OF TAKING, HE SHALL FILE PRELIMINARY OBJECTIONS



1        WITHIN 30 DAYS AFTER BEING SERVED WITH NOTICE OF  
2        CONDEMNATION.

3        (D) COMPLIANCE.--SERVICE OF A COPY OF THE DECLARATION OF  
4 TAKING, TOGETHER WITH THE INFORMATION AND NOTICE REQUIRED BY  
5 SUBSECTION (C)(2), (8) AND (12), SHALL CONSTITUTE COMPLIANCE  
6 WITH THE NOTICE REQUIREMENTS OF THIS SECTION.

7        (E) PROOF OF SERVICE.--THE CONDEMNOR SHALL FILE PROOF OF  
8 SERVICE OF THE NOTICE.

9    § 306. PRELIMINARY OBJECTIONS.

10       (A) FILING AND EXCLUSIVE METHOD OF CHALLENGING CERTAIN  
11 MATTERS.--WITHIN 30 DAYS AFTER BEING SERVED WITH NOTICE OF  
12 CONDEMNATION, THE CONDEMNEE MAY FILE PRELIMINARY OBJECTIONS TO  
13 THE DECLARATION OF TAKING. THE COURT UPON CAUSE SHOWN MAY EXTEND  
14 THE TIME FOR FILING PRELIMINARY OBJECTIONS. PRELIMINARY  
15 OBJECTIONS SHALL BE LIMITED TO AND SHALL BE THE EXCLUSIVE METHOD  
16 OF CHALLENGING:

17           (1) THE POWER OR RIGHT OF THE CONDEMNOR TO APPROPRIATE  
18 THE CONDEMNED PROPERTY UNLESS IT HAS BEEN PREVIOUSLY  
19 ADJUDICATED.

20           (2) THE SUFFICIENCY OF THE SECURITY.

21           (3) THE DECLARATION OF TAKING.

22           (4) ANY OTHER PROCEDURE FOLLOWED BY THE CONDEMNOR.

23        (B) WAIVER.--FAILURE TO RAISE BY PRELIMINARY OBJECTIONS THE  
24 ISSUES LISTED IN SUBSECTION (A) SHALL CONSTITUTE A WAIVER.

25        (C) GROUNDS TO BE STATED.--PRELIMINARY OBJECTIONS SHALL  
26 STATE SPECIFICALLY THE GROUNDS RELIED ON.

27        (D) WHEN RAISED.--ALL PRELIMINARY OBJECTIONS SHALL BE RAISED  
28 AT ONE TIME AND IN ONE PLEADING. THEY MAY BE INCONSISTENT.

29        (E) SERVICE.--THE CONDEMNEE SHALL SERVE A COPY OF THE  
30 PRELIMINARY OBJECTIONS ON THE CONDEMNOR WITHIN 72 HOURS AFTER

1 FILING THEM.

2 (F) DISPOSITION.--THE COURT SHALL DETERMINE PROMPTLY ALL  
3 PRELIMINARY OBJECTIONS AND MAKE PRELIMINARY AND FINAL ORDERS AND  
4 DECREES AS JUSTICE SHALL REQUIRE, INCLUDING THE REVESTING OF  
5 TITLE. IF AN ISSUE OF FACT IS RAISED, THE COURT SHALL TAKE  
6 EVIDENCE BY DEPOSITIONS OR OTHERWISE. THE COURT MAY ALLOW  
7 AMENDMENT OR DIRECT THE FILING OF A MORE SPECIFIC DECLARATION OF  
8 TAKING.

9 (G) COSTS, EXPENSES AND DAMAGES.--IF PRELIMINARY OBJECTIONS  
10 WHICH HAVE THE EFFECT OF TERMINATING THE CONDEMNATION ARE  
11 SUSTAINED, THE CONDEMNEE SHALL BE REIMBURSED BY THE CONDEMNOR  
12 FOR REASONABLE APPRAISAL, ATTORNEY AND ENGINEERING FEES AND  
13 OTHER COSTS AND EXPENSES ACTUALLY INCURRED AND FOR ANY DAMAGES  
14 FOR LOSSES SUSTAINED BECAUSE OF THE CONDEMNATION PROCEEDINGS.  
15 THESE COSTS, EXPENSES AND DAMAGES SHALL BE ASSESSED BY THE COURT  
16 UNLESS EITHER PARTY WITHIN 30 DAYS AFTER THE ENTRY OF THE ORDER  
17 SUSTAINING THE PRELIMINARY OBJECTIONS DEMANDS A JURY TRIAL TO  
18 DETERMINE ANY DAMAGES FOR LOSSES SUSTAINED BY THE CONDEMNEE.

19 § 307. POSSESSION, RIGHT OF ENTRY AND PAYMENT OF COMPENSATION.

20 (A) POSSESSION OR RIGHT OF ENTRY OF CONDEMNOR.--THE  
21 CONDEMNOR, AFTER THE EXPIRATION OF THE TIME FOR FILING  
22 PRELIMINARY OBJECTIONS BY THE CONDEMNEE TO THE DECLARATION OF  
23 TAKING, SHALL BE ENTITLED TO POSSESSION OR RIGHT OF ENTRY UPON  
24 PAYMENT OF, OR A WRITTEN OFFER TO PAY TO THE CONDEMNEE, THE  
25 AMOUNT OF JUST COMPENSATION AS ESTIMATED BY THE CONDEMNOR.  
26 HOWEVER, THE CONDEMNOR SHALL BE ENTITLED TO POSSESSION OR RIGHT  
27 OF ENTRY UPON AN EASEMENT WITHOUT THE PAYMENT OF OR OFFER TO PAY  
28 THE ESTIMATED JUST COMPENSATION IF THE CONDEMNOR HAS THE RIGHT  
29 TO ASSESS THE PROPERTY FOR BENEFITS. IF A CONDEMNEE OR ANY OTHER  
30 PERSON THEN REFUSES TO DELIVER POSSESSION OR PERMIT RIGHT OF

1 ENTRY, THE PROTHONOTARY UPON PRAECIPE OF THE CONDEMNOR SHALL  
2 ISSUE A RULE, RETURNABLE IN FIVE DAYS AFTER SERVICE UPON THE  
3 CONDEMNEE OR THE OTHER PERSON, TO SHOW CAUSE WHY A WRIT OF  
4 POSSESSION SHOULD NOT ISSUE. THE COURT, UNLESS PRELIMINARY  
5 OBJECTIONS WARRANTING DELAY ARE PENDING, MAY ISSUE A WRIT OF  
6 POSSESSION CONDITIONED EXCEPT AS PROVIDED IN THIS SUBSECTION  
7 UPON PAYMENT TO THE CONDEMNEE OR INTO COURT OF THE ESTIMATED  
8 JUST COMPENSATION AND ON ANY OTHER TERMS AS THE COURT MAY  
9 DIRECT.

10 (B) TENDER OF POSSESSION OR RIGHT OF ENTRY BY CONDEMNEE.--IF  
11 WITHIN 60 DAYS FROM THE FILING OF THE DECLARATION OF TAKING THE  
12 CONDEMNOR HAS NOT PAID JUST COMPENSATION AS PROVIDED IN  
13 SUBSECTION (A), THE CONDEMNEE MAY TENDER POSSESSION OR RIGHT OF  
14 ENTRY IN WRITING, AND THE CONDEMNOR SHALL THEN MAKE PAYMENT OF  
15 THE JUST COMPENSATION DUE THE CONDEMNEE AS ESTIMATED BY THE  
16 CONDEMNOR. IF THE CONDEMNOR FAILS TO MAKE THE PAYMENT, THE  
17 COURT, UPON PETITION OF THE CONDEMNEE, MAY COMPEL THE CONDEMNOR  
18 TO FILE A DECLARATION OF ESTIMATED JUST COMPENSATION OR, IF THE  
19 CONDEMNOR FAILS OR REFUSES TO FILE THE DECLARATION, MAY AT THE  
20 COST OF THE CONDEMNOR APPOINT AN IMPARTIAL EXPERT APPRAISER TO  
21 ESTIMATE JUST COMPENSATION. THE COURT MAY, AFTER HEARING, ENTER  
22 JUDGMENT FOR THE AMOUNT OF THE ESTIMATED JUST COMPENSATION.

23 (C) COMPENSATION WITHOUT PREJUDICE.--THE COMPENSATION PAID  
24 UNDER SUBSECTIONS (A) AND (B) SHALL BE WITHOUT PREJUDICE TO THE  
25 RIGHTS OF EITHER THE CONDEMNOR OR THE CONDEMNEE TO PROCEED TO A  
26 FINAL DETERMINATION OF THE JUST COMPENSATION, AND ANY PAYMENTS  
27 MADE SHALL BE CONSIDERED ONLY AS PAYMENTS PRO TANTO OF THE JUST  
28 COMPENSATION AS FINALLY DETERMINED. FOLLOWING THE RENDITION OF  
29 THE VERDICT, THE COURT SHALL MOLD THE VERDICT TO DEDUCT THE  
30 ESTIMATED JUST COMPENSATION PREVIOUSLY PAID BY THE CONDEMNOR.

1 HOWEVER, IN NO EVENT SHALL THE CONDEMNEE BE COMPELLED TO PAY  
2 BACK TO THE CONDEMNOR THE COMPENSATION PAID UNDER SUBSECTION (A)  
3 OR (B), EVEN IF THE AMOUNT OF JUST COMPENSATION AS FINALLY  
4 DETERMINED IS LESS THAN THE COMPENSATION PAID.

5 § 308. REVOCATION OF CONDEMNATION PROCEEDINGS.

6 (A) DECLARATION OF RELINQUISHMENT.--THE CONDEMNOR, BY FILING  
7 A DECLARATION OF RELINQUISHMENT IN COURT WITHIN TWO YEARS FROM  
8 THE FILING OF THE DECLARATION OF TAKING AND BEFORE HAVING MADE  
9 THE PAYMENT PROVIDED IN SECTION 307(A) OR (B) (RELATING TO  
10 POSSESSION, RIGHT OF ENTRY AND PAYMENT OF COMPENSATION) OR AS TO  
11 WHICH THE CONDEMNEE HAS NOT TENDERED POSSESSION OF THE CONDEMNED  
12 PROPERTY AS PROVIDED IN SECTION 307, MAY RELINQUISH ALL OR ANY  
13 PART OF THE PROPERTY CONDEMNED THAT IT HAS NOT TAKEN ACTUAL  
14 POSSESSION OF FOR USE IN THE IMPROVEMENT. THE TITLE SHALL THEN  
15 REVEST IN THE CONDEMNEE AS OF THE DATE OF THE FILING OF THE  
16 DECLARATION OF TAKING, AND ALL MORTGAGES AND OTHER LIENS  
17 EXISTING AS OF THAT DATE AND NOT THEREAFTER DISCHARGED SHALL BE  
18 REINSTATED.

19 (B) NOTICE.--NOTICE OF THE RELINQUISHMENT SHALL BE RECORDED  
20 IN THE OFFICE OF THE RECORDER OF DEEDS OF THE COUNTY IN WHICH  
21 THE PROPERTY TAKEN IS LOCATED, WITH THE CONDEMNOR AS THE GRANTOR  
22 AND THE CONDEMNEE AS THE GRANTEE, AND THE NOTICE OF THE  
23 RELINQUISHMENT SHALL BE SERVED ON THE CONDEMNEE AND MORTGAGEES  
24 AND OTHER LIENHOLDERS OF RECORD IN THE SAME MANNER AS PROVIDED  
25 FOR SERVICE OF THE DECLARATION OF TAKING.

26 (C) FEES.--THE FEES PAYABLE TO THE RECORDER FOR RECORDING  
27 THE NOTICE OF RELINQUISHMENT SHALL BE IN THE SAME AMOUNTS AS  
28 PROVIDED IN SECTION 304(C) (RELATING TO RECORDING NOTICE OF  
29 CONDEMNATION).

30 (D) COSTS, EXPENSES AND DAMAGES.--WHERE CONDEMNED PROPERTY

1 IS RELINQUISHED, THE CONDEMNEE SHALL BE REIMBURSED BY THE  
2 CONDEMNOR FOR REASONABLE COSTS, EXPENSES AND DAMAGES AS PROVIDED  
3 IN SECTION 306(G) (RELATING TO PRELIMINARY OBJECTIONS).

4 (E) AGREEMENT.--THE CONDEMNOR AND THE CONDEMNEE, WITHOUT THE  
5 FILING OF A DECLARATION OF RELINQUISHMENT, MAY BY AGREEMENT  
6 EFFECT A REVESTING OF TITLE IN THE CONDEMNEE WHICH AGREEMENT  
7 SHALL BE PROPERLY RECORDED.

8 § 309. RIGHT TO ENTER PROPERTY PRIOR TO CONDEMNATION.

9 PRIOR TO THE FILING OF THE DECLARATION OF TAKING, THE  
10 CONDEMNOR OR ITS EMPLOYEES OR AGENTS SHALL HAVE THE RIGHT TO  
11 ENTER UPON ANY LAND OR IMPROVEMENT WHICH IT HAS THE POWER TO  
12 CONDEMN IN ORDER TO MAKE STUDIES, SURVEYS, TESTS, SOUNDINGS AND  
13 APPRAISALS. HOWEVER, THE OWNER OF THE LAND OR THE PARTY IN WHOSE  
14 NAME THE PROPERTY IS ASSESSED SHALL BE NOTIFIED TEN DAYS PRIOR  
15 TO ENTRY ON THE PROPERTY. ANY ACTUAL DAMAGES SUSTAINED BY THE  
16 OWNER OF A PROPERTY INTEREST IN THE PROPERTY ENTERED UPON BY THE  
17 CONDEMNOR SHALL BE PAID BY THE CONDEMNOR AND SHALL BE ASSESSED  
18 BY THE COURT OR VIEWERS IN THE SAME MANNER AS PROVIDED IN  
19 SECTION 306(G) (RELATING TO PRELIMINARY OBJECTIONS). THE  
20 EXERCISE OF THIS RIGHT OF ENTRY BY THE CONDEMNOR SHALL NEITHER  
21 CONSTITUTE A CONDEMNATION NOR BE INTERPRETED AS A NOTICE OF AN  
22 INTENT TO ACQUIRE THE REAL PROPERTY.

23 § 310. ABANDONMENT OF PROJECT.

24 (A) DISPOSITION OF PROPERTY.--IF A CONDEMNOR HAS CONDEMNED A  
25 FEE AND THEN ABANDONS THE PURPOSE FOR WHICH THE PROPERTY HAS  
26 BEEN CONDEMNED, THE CONDEMNOR MAY DISPOSE OF IT BY SALE OR  
27 OTHERWISE. IF THE PROPERTY HAS NOT BEEN SUBSTANTIALLY IMPROVED,  
28 IT MAY NOT BE DISPOSED OF WITHIN THREE YEARS AFTER CONDEMNATION  
29 WITHOUT FIRST BEING OFFERED TO THE CONDEMNEE AT THE SAME PRICE  
30 PAID TO THE CONDEMNEE BY THE CONDEMNOR. IF THE PROPERTY IS NOT

1 LOCATED WITHIN THE CORPORATE BOUNDARIES OF A COUNTY OF THE FIRST  
2 OR SECOND CLASS AND HAS NOT BEEN SUBSTANTIALLY IMPROVED AND WAS  
3 DEVOTED TO AGRICULTURAL USE AT THE TIME OF THE CONDEMNATION, IT  
4 MAY NOT BE DISPOSED OF WITHIN 12 YEARS AFTER CONDEMNATION  
5 WITHOUT FIRST BEING OFFERED TO THE CONDEMNEE AT THE SAME PRICE  
6 PAID TO THE CONDEMNEE BY THE CONDEMNOR.

7 (B) NOTICE.--THE CONDEMNEE SHALL BE SERVED WITH NOTICE OF  
8 THE OFFER IN THE SAME MANNER AS PRESCRIBED FOR THE SERVICE OF  
9 NOTICES IN SECTION 305(B) (RELATING TO NOTICE TO CONDEMNEE) AND  
10 SHALL HAVE 90 DAYS AFTER RECEIPT OF NOTICE TO MAKE WRITTEN  
11 ACCEPTANCE.

12 (C) CERTAIN CONDITIONAL OFFERS PROHIBITED.--THE CONDEMNOR  
13 MAY NOT CONDITION ANY OFFER REQUIRED TO BE MADE TO A CONDEMNEE  
14 UNDER SUBSECTION (A) ON THE PAYMENT BY THE CONDEMNEE OF  
15 ADDITIONAL FEES, REAL ESTATE TAXES OR PAYMENTS IN LIEU OF TAXES  
16 OR OTHER COSTS.

17 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
18 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
19 SUBSECTION:

20 "AGRICULTURAL COMMODITY." ANY PLANT AND ANIMAL PRODUCTS,  
21 INCLUDING CHRISTMAS TREES, PRODUCED IN THIS COMMONWEALTH FOR  
22 COMMERCIAL PURPOSES.

23 "AGRICULTURAL USE." USE OF THE LAND FOR THE PURPOSE OF  
24 PRODUCING AN AGRICULTURAL COMMODITY OR WHEN DEVOTED TO AND  
25 MEETING THE REQUIREMENTS AND QUALIFICATIONS FOR PAYMENTS OR  
26 OTHER COMPENSATION PURSUANT TO A SOIL CONSERVATION PROGRAM UNDER  
27 AN AGREEMENT WITH AN AGENCY OF THE FEDERAL GOVERNMENT. LAND  
28 CONTAINING A FARMHOUSE OR OTHER BUILDINGS RELATED TO FARMING  
29 SHALL BE DEEMED TO BE IN AGRICULTURAL USE.

30 CHAPTER 5

PROCEDURE FOR DETERMINING DAMAGES

SEC.

501. AGREEMENT AS TO DAMAGES.

502. PETITION FOR APPOINTMENT OF VIEWERS.

503. VIEW.

504. APPOINTMENT OF VIEWERS.

505. SERVICE OF NOTICE OF VIEW AND HEARING.

506. ADDITIONAL CONDEMNEDS, MORTGAGEES AND INTERVENTION.

507. JOINT CLAIMS.

508. APPOINTMENT OF TRUSTEE OR GUARDIAN AD LITEM.

509. FURNISHING OF PLANS TO VIEWERS.

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§ 501. AGREEMENT AS TO DAMAGES.

AT ANY STAGE OF THE PROCEEDINGS, THE CONDEMNOR AND THE  
CONDEMNEE MAY AGREE UPON ALL OR ANY PART OR ITEM OF THE DAMAGES  
AND PROCEED TO HAVE THOSE PARTS OR ITEMS NOT AGREED UPON  
ASSESSED AS PROVIDED IN THIS CHAPTER. THE CONDEMNOR MAY MAKE

1 PAYMENT OF ANY PART OR ITEM AGREED UPON.

2 § 502. PETITION FOR APPOINTMENT OF VIEWERS.

3 (A) CONTENTS OF PETITION.--A CONDEMNOR, CONDEMNEE OR  
4 DISPLACED PERSON MAY FILE A PETITION REQUESTING THE APPOINTMENT  
5 OF VIEWERS, SETTING FORTH:

6 (1) A CAPTION DESIGNATING THE CONDEMNEE OR DISPLACED  
7 PERSON AS THE PLAINTIFF AND THE CONDEMNOR AS THE DEFENDANT.

8 (2) THE DATE OF THE FILING OF THE DECLARATION OF TAKING  
9 AND WHETHER ANY PRELIMINARY OBJECTIONS HAVE BEEN FILED AND  
10 REMAIN UNDISPOSED OF.

11 (3) IN THE CASE OF A PETITION OF A CONDEMNEE OR  
12 DISPLACED PERSON, THE NAME OF THE CONDEMNOR.

13 (4) THE NAMES AND ADDRESSES OF ALL CONDEMNES, DISPLACED  
14 PERSONS AND MORTGAGEES KNOWN TO THE PETITIONER TO HAVE AN  
15 INTEREST IN THE PROPERTY ACQUIRED AND THE NATURE OF THEIR  
16 INTEREST.

17 (5) A BRIEF DESCRIPTION OF THE PROPERTY ACQUIRED.

18 (6) A REQUEST FOR THE APPOINTMENT OF VIEWERS TO  
19 ASCERTAIN JUST COMPENSATION.

20 (B) PROPERTY INCLUDED IN CONDEMNOR'S PETITION.--THE  
21 CONDEMNOR MAY INCLUDE IN ITS PETITION ANY OR ALL OF THE PROPERTY  
22 INCLUDED IN THE DECLARATION OF TAKING.

23 (C) CONDEMNATION WHERE NO DECLARATION OF TAKING HAS BEEN  
24 FILED.--AN OWNER OF A PROPERTY INTEREST WHO ASSERTS THAT HIS  
25 PROPERTY INTEREST HAS BEEN CONDEMNED WITHOUT THE FILING OF A  
26 DECLARATION OF TAKING MAY FILE A PETITION FOR THE APPOINTMENT OF  
27 VIEWERS SUBSTANTIALLY IN THE FORM PROVIDED FOR IN SUBSECTION (A)  
28 SETTING FORTH THE FACTUAL BASIS OF THE PETITION. THE COURT SHALL  
29 DETERMINE WHETHER A CONDEMNATION HAS OCCURRED, AND, IF THE COURT  
30 DETERMINES THAT A CONDEMNATION HAS OCCURRED, THE COURT SHALL



1 DETERMINE THE CONDEMNATION DATE AND THE EXTENT AND NATURE OF ANY  
2 PROPERTY INTEREST CONDEMNED. THE COURT SHALL ENTER AN ORDER  
3 SPECIFYING ANY PROPERTY INTEREST WHICH HAS BEEN CONDEMNED AND  
4 THE DATE OF THE CONDEMNATION. A COPY OF THE ORDER AND ANY  
5 MODIFICATION SHALL BE FILED BY THE CONDEMNOR IN THE OFFICE OF  
6 THE RECORDER OF DEEDS OF THE COUNTY IN WHICH THE PROPERTY IS  
7 LOCATED AND SHALL BE INDEXED IN THE DEED INDICES SHOWING THE  
8 CONDEMNEE AS GRANTOR AND THE CONDEMNOR AS GRANTEE.

9 (D) SEPARATE PROCEEDINGS.--THE COURT, IN FURTHERANCE OF  
10 CONVENIENCE OR TO AVOID PREJUDICE, MAY, ON ITS OWN MOTION OR ON  
11 MOTION OF ANY PARTY, ORDER SEPARATE VIEWERS' PROCEEDINGS OR  
12 TRIAL WHEN MORE THAN ONE PROPERTY HAS BEEN INCLUDED IN THE  
13 PETITION.

14 § 503. VIEW.

15 IN EVERY PROCEEDING AT LEAST ONE OF THE VIEWERS APPOINTED  
16 SHALL BE AN ATTORNEY AT LAW WHO SHALL BE CHAIRMAN OF THE BOARD  
17 AND WHO SHALL ATTEND THE VIEW. AT LEAST TWO OF THE THREE  
18 VIEWERS APPOINTED SHALL VIEW THE PROPERTY IN QUESTION.

19 § 504. APPOINTMENT OF VIEWERS.

20 (A) GENERAL RULE.--UPON THE FILING OF A PETITION FOR THE  
21 APPOINTMENT OF VIEWERS, THE COURT, UNLESS PRELIMINARY OBJECTIONS  
22 TO THE VALIDITY OF THE CONDEMNATION OR JURISDICTION, WARRANTING  
23 DELAY, ARE PENDING, SHALL PROMPTLY APPOINT THREE VIEWERS, WHO  
24 SHALL VIEW THE PREMISES, HOLD HEARINGS AND FILE A REPORT. IN  
25 COUNTIES OF THE FIRST CLASS, THE COURT MAY APPOINT AN ALTERNATE  
26 VIEWER IN ADDITION TO THE THREE VIEWERS SPECIFICALLY APPOINTED.  
27 THE PROTHONOTARY SHALL PROMPTLY NOTIFY THE VIEWERS OF THEIR  
28 APPOINTMENT UNLESS A LOCAL RULE PROVIDES ANOTHER METHOD OF  
29 NOTIFICATION. NO VIEWER SHALL REPRESENT A CLIENT OR TESTIFY AS  
30 AN EXPERT WITNESS BEFORE THE BOARD.

1 (B) SERVICE OF PETITION FOR THE APPOINTMENT OF VIEWERS AND  
2 ORDER APPOINTING VIEWERS.--THE PETITIONERS SHALL PROMPTLY SEND  
3 TO ALL OTHER PARTIES BY REGISTERED MAIL, RETURN RECEIPT  
4 REQUESTED, A CERTIFIED TRUE COPY OF THE PETITION FOR THE  
5 APPOINTMENT OF VIEWERS AND A COPY OF THE COURT ORDER APPOINTING  
6 THE VIEWERS IF AN ORDER HAS BEEN ENTERED. A COPY OF THE PETITION  
7 AND ORDER, IF ENTERED, SHALL ALSO BE MAILED TO ALL MORTGAGEES  
8 AND OTHER LIENHOLDERS OF RECORD.

9 (C) NOTICE OF VIEWS AND HEARINGS.--THE VIEWERS SHALL GIVE  
10 NOTICE OF THE TIME AND PLACE OF ALL VIEWS AND HEARINGS. THIS  
11 NOTICE SHALL BE GIVEN TO ALL PARTIES BY NOT LESS THAN 30 DAYS  
12 WRITTEN NOTICE BY REGISTERED MAIL, RETURN RECEIPT REQUESTED.

13 (D) PRELIMINARY OBJECTIONS.--ANY OBJECTION TO THE  
14 APPOINTMENT OF VIEWERS MAY BE RAISED BY PRELIMINARY OBJECTIONS  
15 FILED WITHIN 30 DAYS AFTER RECEIPT OF NOTICE OF THE APPOINTMENT  
16 OF VIEWERS. OBJECTIONS TO THE FORM OF THE PETITION OR THE  
17 APPOINTMENT OR THE QUALIFICATIONS OF THE VIEWERS IN ANY  
18 PROCEEDING OR TO THE LEGAL SUFFICIENCY OR FACTUAL BASIS OF A  
19 PETITION FILED UNDER SECTION 502(C) (RELATING TO PETITION FOR  
20 APPOINTMENT OF VIEWERS) ARE WAIVED UNLESS INCLUDED IN  
21 PRELIMINARY OBJECTIONS. AN ANSWER WITH OR WITHOUT NEW MATTER MAY  
22 BE FILED WITHIN 20 DAYS OF SERVICE OF PRELIMINARY OBJECTIONS,  
23 AND A REPLY TO NEW MATTER MAY BE FILED WITHIN 20 DAYS OF SERVICE  
24 OF THE ANSWER. THE COURT SHALL DETERMINE PROMPTLY ALL  
25 PRELIMINARY OBJECTIONS AND MAKE ANY ORDERS AND DECREES AS  
26 JUSTICE REQUIRES. IF AN ISSUE OF FACT IS RAISED, THE COURT SHALL  
27 CONDUCT AN EVIDENTIARY HEARING OR ORDER THAT EVIDENCE BE TAKEN  
28 BY DEPOSITION OR OTHERWISE, BUT IN NO EVENT SHALL EVIDENCE BE  
29 TAKEN BY THE VIEWERS ON THIS ISSUE.

30 § 505. SERVICE OF NOTICE OF VIEW AND HEARING.

1 NOTICE OF THE VIEW AND HEARING SHALL BE SERVED, WITHIN OR  
2 WITHOUT THIS COMMONWEALTH, BY ANY COMPETENT ADULT IN THE SAME  
3 MANNER AS A CIVIL ACTION OR BY REGISTERED MAIL, RETURN RECEIPT  
4 REQUESTED, TO THE LAST KNOWN ADDRESS OF THE CONDEMNEE AND  
5 CONDEMNOR. IF SERVICE CANNOT BE MADE IN THE MANNER PROVIDED,  
6 THEN SERVICE SHALL BE MADE BY POSTING A COPY OF THE NOTICE UPON  
7 A PUBLIC PART OF THE PROPERTY AND BY PUBLICATION, AT THE COST OF  
8 THE CONDEMNOR, ONCE IN A NEWSPAPER OF GENERAL CIRCULATION AND  
9 ONCE IN THE LEGAL PUBLICATION, IF ANY, DESIGNATED BY RULE OR  
10 ORDER OF COURT FOR PUBLICATION OF LEGAL NOTICES, PUBLISHED IN  
11 THE COUNTY. PROOF OF SERVICE AND THE MANNER OF SERVICE SHALL BE  
12 ATTACHED TO THE VIEWERS' REPORT.

13 § 506. ADDITIONAL CONDEMNEDS, MORTGAGEES AND INTERVENTION.

14 (A) IDENTIFICATION.--THE CONDEMNED, AT OR BEFORE THE HEARING  
15 AT WHICH HIS CLAIM IS PRESENTED, SHALL FURNISH THE VIEWERS AND  
16 THE CONDEMNOR WITH THE NAMES AND ADDRESSES OF ALL OTHER  
17 CONDEMNEDS KNOWN TO THE CONDEMNED TO HAVE AN INTEREST IN HIS  
18 PROPERTY AND THE NATURE OF THEIR INTERESTS AND THE NAMES AND  
19 ADDRESSES OF ALL MORTGAGEES AND OTHER LIENHOLDERS OF RECORD  
20 KNOWN TO THE CONDEMNED.

21 (B) NOTICE.--THE VIEWERS SHALL NOTIFY BY WRITTEN NOTICE ALL  
22 PERSONS WHO ARE SO DISCLOSED AS HAVING AN INTEREST IN THE  
23 PROPERTY AND ALL MORTGAGEES AND OTHER LIENHOLDERS OF RECORD OF  
24 THE PENDENCY OF THE PROCEEDINGS AND OF SUBSEQUENT HEARINGS. IF  
25 THE ADDITIONAL CONDEMNEDS AND MORTGAGEES AND OTHER LIENHOLDERS  
26 OF RECORD HAVE NOT RECEIVED 20 DAYS NOTICE OF THE HEARING, THE  
27 VIEWERS SHALL, UPON REQUEST, ADJOURN THE HEARING TO ALLOW  
28 NOTICE.

29 (C) INTERVENTION.--THE COURT MAY PERMIT A MORTGAGEE,  
30 JUDGMENT CREDITOR OR OTHER LIENHOLDER TO INTERVENE IN THE

1 PROCEEDINGS WHERE HIS INTEREST IS NOT ADEQUATELY PROTECTED, BUT  
2 HE SHALL NOT BE A PARTY TO THE PROCEEDINGS UNLESS HE HAS  
3 INTERVENED.

4 § 507. JOINT CLAIMS.

5 (A) REQUIRED.--THE CLAIMS OF ALL THE OWNERS OF THE CONDEMNED  
6 PROPERTY, INCLUDING JOINT TENANTS, TENANTS IN COMMON, LIFE  
7 TENANTS, REMAINDERMEN, OWNERS OF EASEMENTS OR GROUND RENTS AND  
8 ALL OTHERS HAVING AN INTEREST IN THE PROPERTY AND THE CLAIMS OF  
9 ALL TENANTS, IF ANY, OF THE PROPERTY, SHALL BE HEARD OR TRIED  
10 TOGETHER.

11 (B) APPORTIONMENT OF DAMAGES.--THE AWARD OF THE VIEWERS OR  
12 THE VERDICT ON APPEAL FROM THE VIEWERS SHALL, FIRST, FIX THE  
13 TOTAL AMOUNT OF DAMAGES FOR THE PROPERTY AND, SECOND, APPORTION  
14 THE TOTAL AMOUNT OF DAMAGES BETWEEN OR AMONG THE SEVERAL  
15 CLAIMANTS ENTITLED TO DAMAGES.

16 (C) SEPARATE HEARINGS.--CLAIMS FOR SPECIAL DAMAGES UNDER  
17 SECTION 901 (RELATING TO MOVING AND RELATED EXPENSES OF  
18 DISPLACED PERSONS) MAY BE HEARD OR TRIED SEPARATELY.

19 § 508. APPOINTMENT OF TRUSTEE OR GUARDIAN AD LITEM.

20 THE COURT ON ITS OWN MOTION MAY, OR ON PETITION OF ANY PARTY  
21 IN INTEREST SHALL, APPOINT A TRUSTEE AD LITEM OR GUARDIAN AD  
22 LITEM, AS MAY BE APPROPRIATE, IN ACCORDANCE WITH GENERAL RULES.

23 § 509. FURNISHING OF PLANS TO VIEWERS.

24 THE CONDEMNOR SHALL FURNISH THE VIEWERS AT OR BEFORE THE VIEW  
25 WITH A PLAN SHOWING THE ENTIRE PROPERTY INVOLVED, THE  
26 IMPROVEMENTS, THE EXTENT AND NATURE OF THE CONDEMNATION AND ANY  
27 OTHER PHYSICAL DATA, INCLUDING GRADES, AS MAY BE NECESSARY FOR  
28 THE PROPER DETERMINATION OF JUST COMPENSATION. IF, IN THE  
29 OPINION OF THE VIEWERS, THE PLANS ARE INSUFFICIENT, THEY MAY  
30 REQUIRE THE SUBMISSION OF SUPPLEMENTAL PLANS. COPIES OF THE

1 PLANS SHALL BE FURNISHED AT THE SAME TIME, WITHOUT COST, TO THE  
2 CONDEMNEE UPON WRITTEN REQUEST. IF THE CONDEMNOR DOES NOT  
3 FURNISH A PLAN OR THE CONDEMNOR'S PLANS ARE INSUFFICIENT, THE  
4 COURT, ON APPLICATION OF THE CONDEMNEE, MAY CHARGE TO THE  
5 CONDEMNOR, AS COSTS, REASONABLE EXPENSES FOR PLANS FURNISHED BY  
6 THE CONDEMNEE.

7 § 510. POWERS OF VIEWERS.

8 THE VIEWERS SHALL HAVE POWER TO ADJOURN THE PROCEEDINGS FROM  
9 TIME TO TIME. UPON REQUEST OF THE VIEWERS OR A PARTY, THE COURT  
10 WHICH APPOINTED THE VIEWERS SHALL ISSUE A SUBPOENA TO TESTIFY OR  
11 TO PRODUCE BOOKS AND DOCUMENTS. ALL THE VIEWERS SHALL ACT,  
12 UNLESS PREVENTED BY SICKNESS OR OTHER UNAVOIDABLE CAUSE, BUT A  
13 MAJORITY OF THE VIEWERS MAY HEAR, DETERMINE, ACT UPON AND REPORT  
14 ALL MATTERS RELATING TO THE VIEW FOR WHICH THEY WERE APPOINTED.  
15 THE PROVISIONS OF THIS SECTION SHALL NOT BE AFFECTED BY THE  
16 APPOINTMENT OF AN ALTERNATE VIEWER AS PROVIDED FOR IN SECTION  
17 504 (RELATING TO APPOINTMENT OF VIEWERS).

18 § 511. ADMINISTRATIVE MATTERS FOR VIEWERS' HEARINGS.

19 (A) FACILITIES.--ALL VIEWERS' HEARINGS SHALL BE HELD  
20 PUBLICLY IN A SUITABLE PLACE WITHIN THE COUNTY DESIGNATED BY THE  
21 COURT.

22 (B) STENOGRAPHIC NOTES.--WHENEVER IN THE OPINION OF THE  
23 VIEWERS IT IS DESIRABLE, ACCURATE STENOGRAPHIC NOTES OF HEARINGS  
24 SHALL BE TAKEN, AND COPIES OF THE NOTES SHALL BE FURNISHED TO  
25 THE PARTIES INTERESTED WHEN DESIRED UPON PAYMENT OF A SUM FIXED  
26 BY THE RULES AND REGULATIONS OF THE RESPECTIVE COURT.

27 § 512. REPORT OF VIEWERS.

28 THE VIEWERS SHALL FILE A REPORT WHICH SHALL INCLUDE IN BRIEF  
29 AND CONCISE PARAGRAPH FORM:

30 (1) THE DATE OF THEIR APPOINTMENT AS VIEWERS.

1           (2) A REFERENCE TO THE NOTICES OF THE TIME AND PLACE OF  
2 VIEW AND HEARING WITH PROOF OF SERVICE OF NOTICES, WHICH  
3 SHALL BE ATTACHED TO THE REPORT.

4           (3) A COPY OF THE PLAN SHOWING THE EXTENT OF THE TAKING  
5 OR INJURY UPON WHICH THE VIEWERS' AWARD IS PREDICATED AND A  
6 STATEMENT OF THE NATURE OF THE INTEREST CONDEMNED.

7           (4) THE DATE OF THE FILING OF THE DECLARATION OF TAKING.

8           (5) A SCHEDULE OF DAMAGES AWARDED AND BENEFITS ASSESSED,  
9 TO AND BY WHOM PAYABLE, AND FOR WHICH PROPERTY, SEPARATELY  
10 STATED AS FOLLOWS: GENERAL DAMAGES, MOVING AND REMOVAL  
11 EXPENSES, BUSINESS DISLOCATION DAMAGES AND OTHER ITEMS OF  
12 SPECIAL DAMAGES AUTHORIZED BY THIS TITLE AND THE DATE FROM  
13 WHICH DAMAGES FOR DELAY SHALL BE CALCULATED.

14           (6) IN THE CASE OF A PARTIAL TAKING, A STATEMENT AS TO  
15 THE AMOUNT OF THE GENERAL DAMAGES ATTRIBUTABLE AS SEVERANCE  
16 DAMAGES TO THE PART OF THE PROPERTY NOT TAKEN, IF THE  
17 APPORTIONMENT HAS BEEN REQUESTED IN WRITING BY THE CONDEMNEE.

18           (7) WHERE THERE ARE SEVERAL INTERESTS IN THE CONDEMNED  
19 PROPERTY, A STATEMENT OF THE TOTAL AMOUNT OF DAMAGES AND THE  
20 DISTRIBUTION BETWEEN OR AMONG THE SEVERAL CLAIMANTS.

21           (8) WHETHER THERE ARE OTHER CLAIMANTS TO ANY INTEREST OR  
22 ESTATE IN THE PROPERTY CONDEMNED AND THE VIEWERS'  
23 DETERMINATION OF THE EXTENT, IF ANY, OF EACH INTEREST IN THE  
24 PROPERTY AND IN THE AWARD.

25           (9) THEIR RULINGS ON ANY WRITTEN REQUESTS FOR FINDINGS  
26 OF FACT AND CONCLUSIONS OF LAW SUBMITTED TO THEM.

27           (10) OTHER MATTERS THEY DEEM RELEVANT.

28 § 513. DISAGREEMENT.

29 IF A MAJORITY OF THE VIEWERS DO NOT AGREE ON A DECISION,  
30 THREE NEW VIEWERS SHALL BE APPOINTED BY THE COURT UPON

1 APPLICATION OF ANY INTERESTED PARTY.

2 § 514. FILING OF REPORT OF VIEWERS.

3 THE VIEWERS SHALL FILE THEIR REPORT WITHIN 30 DAYS OF THEIR  
4 FINAL HEARING OR WITHIN 30 DAYS FROM THE FILING OF THE  
5 TRANSCRIPTION OF THE STENOGRAPHIC NOTES OF TESTIMONY. THE  
6 TRANSCRIPTION SHALL BE FILED WITHIN 30 DAYS OF THE FINAL  
7 HEARING. TEN DAYS BEFORE THE FILING OF THEIR REPORT, THE VIEWERS  
8 SHALL MAIL A COPY OF THE REPORT TO ALL PARTIES OR THEIR  
9 ATTORNEYS OF RECORD, WITH NOTICE OF THE DATE OF THE INTENDED  
10 FILING AND THAT THE REPORT SHALL BECOME FINAL UNLESS AN APPEAL  
11 IS FILED WITHIN 30 DAYS FROM THE DATE THE REPORT IS FILED. PRIOR  
12 TO THE FILING OF THEIR REPORT, THEY MAY CORRECT ANY ERRORS IN  
13 THE REPORT AND GIVE NOTICE TO THE PERSONS AFFECTED. A COPY OF  
14 THE REPORT, WHEN FILED, SHALL ALSO BE MAILED TO ALL MORTGAGEES  
15 AND OTHER LIENHOLDERS OF RECORD.

16 § 515. REPORTS.

17 THE VIEWERS MAY INCLUDE IN ONE REPORT ONE OR MORE PROPERTIES  
18 OR CLAIMS UNDER SECTION 901 (RELATING TO MOVING AND RELATED  
19 EXPENSES OF DISPLACED PERSONS) REFERRED TO THEM UNDER THE SAME  
20 OR SEPARATE PETITIONS IF THE PROPERTIES ARE INCLUDED IN THE SAME  
21 DECLARATION OF TAKING. THE VIEWERS MAY FILE A SEPARATE REPORT  
22 FOR EXPENSES AND DAMAGES UNDER SECTION 901. EACH REPORT SHALL BE  
23 FINAL AS TO THE PROPERTY OR PROPERTIES INCLUDED AND SUBJECT TO  
24 SEPARATE APPEAL.

25 § 516. RIGHT OF APPEAL.

26 (A) GENERAL RULE.--ANY PARTY AGGRIEVED BY THE DECISION OF  
27 THE VIEWERS MAY APPEAL TO THE COURT. THE APPEAL SHALL RAISE ALL  
28 OBJECTIONS OF LAW OR FACT TO THE VIEWERS' REPORT. THE APPEAL  
29 SHALL BE SIGNED BY THE APPELLANT OR HIS ATTORNEY OR HIS AGENT,  
30 AND NO VERIFICATION SHALL BE REQUIRED. ANY AWARD OF DAMAGES OR

1 ASSESSMENT OF BENEFITS, AS THE CASE MAY BE, AS TO WHICH NO  
2 APPEAL IS TAKEN SHALL BECOME FINAL AS OF COURSE AND SHALL  
3 CONSTITUTE A FINAL JUDGMENT.

4 (B) CONSOLIDATION.--THE COURT, ON ITS OWN MOTION OR ON  
5 APPLICATION OF ANY PARTY IN INTEREST, MAY CONSOLIDATE SEPARATE  
6 APPEALS INVOLVING ONLY COMMON QUESTIONS OF LAW AS ONE  
7 PROCEEDING.

8 (C) CROSS APPEALS.--IF A TIMELY APPEAL IS FILED BY A PARTY,  
9 ANY OTHER PARTY MAY FILE AN APPEAL WITHIN 15 DAYS OF THE DATE ON  
10 WHICH THE FIRST APPEAL WAS FILED. AN APPEAL MAY BE TAKEN FROM  
11 LESS THAN ALL OF AN AWARD.

12 (D) WITHDRAWAL.--NO APPEAL MAY BE WITHDRAWN WITHOUT THE  
13 CONSENT OF ALL PARTIES.

14 § 517. APPEALS.

15 (A) CONTENTS.--THE APPEAL SHALL SET FORTH:

16 (1) THE NAME OF APPELLANT AND APPELLEE.

17 (2) A BRIEF DESCRIPTION OR IDENTIFICATION OF THE  
18 PROPERTY INVOLVED AND THE CONDEMNEE'S INTEREST.

19 (3) A REFERENCE TO THE PROCEEDINGS APPEALED FROM AND THE  
20 DATE OF THE FILING OF THE VIEWERS' REPORT.

21 (4) OBJECTIONS, IF ANY, TO THE VIEWERS' REPORT, OTHER  
22 THAN TO THE AMOUNT OF THE AWARD.

23 (5) A DEMAND FOR JURY TRIAL, IF DESIRED. IF THE  
24 APPELLANT DESIRES A JURY TRIAL, HE SHALL, AT THE TIME OF  
25 FILING THE APPEAL, ENDORSE THE APPEAL OR FILE SEPARATELY A  
26 WRITTEN DEMAND FOR JURY TRIAL, SIGNED BY HIM OR COUNSEL. IF  
27 NO DEMAND FOR JURY TRIAL IS MADE BY THE APPELLANT, ANY OTHER  
28 PARTY MAY FILE A WRITTEN DEMAND FOR JURY TRIAL WITHIN 15 DAYS  
29 AFTER BEING SERVED WITH A COPY OF THE APPEAL. IF NO PARTY  
30 MAKES A DEMAND FOR A JURY TRIAL AS PROVIDED IN THIS SECTION,



1 THE RIGHT TO JURY TRIAL SHALL BE DEEMED TO HAVE BEEN WAIVED,  
2 AND THE COURT SHALL TRY THE CASE WITHOUT A JURY.

3 (B) SERVICE.--THE APPELLANT SHALL SERVE A COPY OF THE APPEAL  
4 ON ALL OTHER PARTIES WITHIN FIVE DAYS AFTER FILING THE APPEAL.  
5 PROOF OF SERVICE OF A COPY OF THE APPEAL SHALL BE FILED BY THE  
6 APPELLANT.

7 (C) OTHER PLEADINGS NOT REQUIRED.--NO OTHER PLEADINGS SHALL  
8 BE REQUIRED AND THE CAUSE SHALL BE DEEMED AT ISSUE.

9 § 518. DISPOSITION OF APPEAL.

10 ALL OBJECTIONS, OTHER THAN TO THE AMOUNT OF THE AWARD, RAISED  
11 BY THE APPEAL SHALL BE DETERMINED BY THE COURT PRELIMINARILY.  
12 THE COURT MAY CONFIRM, MODIFY OR CHANGE THE REPORT OR REFER IT  
13 BACK TO THE SAME OR OTHER VIEWERS. A DECREE CONFIRMING,  
14 MODIFYING OR CHANGING THE REPORT CONSTITUTES A FINAL ORDER. THE  
15 AMOUNT OF DAMAGES SHALL BE DETERMINED BY THE COURT UNLESS A JURY  
16 TRIAL HAS BEEN DEMANDED. AT THE TRIAL OF THE CASE, THE CONDEMNEE  
17 SHALL BE THE PLAINTIFF AND THE CONDEMNOR SHALL BE THE DEFENDANT.

18 § 519. ALLOCATION OF DAMAGES.

19 (A) SEVERANCE DAMAGES.--UPON APPEAL FROM AN AWARD OF  
20 VIEWERS, THE COURT, UPON THE REQUEST OF THE PLAINTIFF, SHALL,  
21 AFTER THE JURY OR THE COURT, IF THE TRIAL IS WITHOUT JURY, HAS  
22 RETURNED ITS GENERAL VERDICT, MAKE A SPECIFIC FINDING AND  
23 ALLOCATION OF THE AMOUNT OF THE GENERAL VERDICT ATTRIBUTABLE TO  
24 SEVERANCE DAMAGES TO THE PART OF THE PROPERTY NOT TAKEN.

25 (B) OTHER DAMAGES.--THE JURY, OR THE COURT IN A TRIAL  
26 WITHOUT A JURY, SHALL MAKE SPECIFIC FINDINGS AS TO THE PORTION  
27 OF THE VERDICT ALLOCATED TO GENERAL DAMAGES, MOVING AND REMOVAL  
28 EXPENSES, BUSINESS DISLOCATION DAMAGES AND OTHER ITEMS OF  
29 SPECIAL DAMAGES AUTHORIZED BY THIS TITLE, EXCEPT REASONABLE  
30 APPRAISAL, ATTORNEY AND ENGINEERING FEES RECOVERABLE UNDER

1 SECTIONS 306 (RELATING TO PRELIMINARY OBJECTIONS), 308 (RELATING  
2 TO REVOCATION OF CONDEMNATION PROCEEDINGS), 709 (RELATING TO  
3 CONDEMNEE'S COSTS WHERE NO DECLARATION OF TAKING FILED) AND 710  
4 (RELATING TO LIMITED REIMBURSEMENT OF APPRAISAL, ATTORNEY AND  
5 ENGINEERING FEES), WHICH SHALL BE DETERMINED BY THE COURT IN AN  
6 APPROPRIATE CASE.

7 § 520. WAIVER OF VIEWERS' PROCEEDINGS AND TERMINATION BY  
8 STIPULATION.

9 (A) WAIVER OF VIEWERS' PROCEEDINGS.--THE CONDEMNOR AND  
10 CONDEMNEE MAY, BY WRITTEN AGREEMENT FILED WITH AND APPROVED BY  
11 THE COURT, WAIVE PROCEEDINGS BEFORE VIEWERS AND PROCEED DIRECTLY  
12 TO THE COURT ON AGREED ISSUES OF LAW OR FACT. THE PROCEEDINGS  
13 SHALL THEN BE THE SAME AS ON APPEAL FROM A REPORT OF VIEWERS.

14 (B) TERMINATION BY STIPULATION.--AT ANY TIME AFTER FILING OF  
15 A PETITION FOR THE APPOINTMENT OF VIEWERS, THE PARTIES MAY, BY  
16 STIPULATION FILED WITH THE PROTHONOTARY, TERMINATE THE VIEWERS'  
17 PROCEEDINGS AS TO ALL OR PART OF THE PROPERTIES INVOLVED AND  
18 STIPULATE THAT JUDGMENT MAY BE ENTERED FOR THE AMOUNT OF DAMAGES  
19 AGREED ON FOR EACH PROPERTY INTEREST COVERED BY THE STIPULATION.  
20 A COPY OF THE STIPULATION SHALL BE FILED WITH THE VIEWERS.

21 § 521. LIENS AND DISTRIBUTION OF DAMAGES.

22 (A) LIENS.--DAMAGES PAYABLE TO A CONDEMNEE UNDER SECTIONS  
23 701 (RELATING TO JUST COMPENSATION) THROUGH 707 (RELATING TO  
24 REMOVAL OF MACHINERY, EQUIPMENT OR FIXTURES), 713 (RELATING TO  
25 DELAY COMPENSATION), 714 (RELATING TO CONSEQUENTIAL DAMAGES),  
26 715 (RELATING TO DAMAGES FOR VACATION OF ROADS) AND 901(B)(1)  
27 AND (2) (RELATING TO MOVING AND RELATED EXPENSES OF DISPLACED  
28 PERSONS) SHALL BE SUBJECT TO A LIEN FOR ALL TAXES AND MUNICIPAL  
29 CLAIMS ASSESSED AGAINST THE PROPERTY AND TO ALL MORTGAGES,  
30 JUDGMENTS AND OTHER LIENS OF RECORD AGAINST THE PROPERTY FOR

1 WHICH THE PARTICULAR DAMAGES ARE PAYABLE, EXISTING AT THE DATE  
2 OF THE FILING OF THE DECLARATION OF TAKING. THE LIENS SHALL BE  
3 PAID OUT OF THE DAMAGES IN ORDER OF PRIORITY BEFORE ANY PAYMENT  
4 TO THE CONDEMNEE, UNLESS RELEASED. IN THE CASE OF A PARTIAL  
5 TAKING OR OF DAMAGES UNDER SECTIONS 714 AND 715, THE LIENHOLDER  
6 SHALL BE ENTITLED ONLY TO AN EQUITABLE PRO RATA SHARE OF THE  
7 DAMAGES LIENABLE UNDER THIS SECTION.

8 (B) DISTRIBUTION OF DAMAGES.--IT IS THE OBLIGATION OF THE  
9 CONDEMNOR TO DISTRIBUTE THE DAMAGES PROPERLY. IF THE CONDEMNOR  
10 IS UNABLE TO DETERMINE PROPER DISTRIBUTION OF THE DAMAGES, IT  
11 MAY, WITHOUT PAYMENT INTO COURT, PETITION THE COURT TO  
12 DISTRIBUTE THE DAMAGES AND SHALL FURNISH THE COURT WITH A  
13 SCHEDULE OF PROPOSED DISTRIBUTION. NOTICE OF THE FILING OF THE  
14 PETITION AND SCHEDULE OF PROPOSED DISTRIBUTION SHALL BE GIVEN TO  
15 ALL CONDEMNEES, MORTGAGEES, JUDGMENT CREDITORS AND OTHER  
16 LIENHOLDERS, AS SHOWN IN THE PROPOSED SCHEDULE, IN ANY MANNER AS  
17 THE COURT MAY DIRECT BY GENERAL RULE OR SPECIAL ORDER. THE COURT  
18 MAY HEAR THE MATTER OR MAY APPOINT A MASTER TO HEAR AND REPORT  
19 OR MAY ORDER ANY ISSUE TRIED BY THE COURT AND JURY AS MAY APPEAR  
20 PROPER UNDER ALL THE CIRCUMSTANCES. THE COURT SHALL THEN ENTER  
21 AN ORDER OF DISTRIBUTION OF THE FUND.

22 § 522. PAYMENT INTO COURT AND DISTRIBUTION.

23 (A) PAYMENT INTO COURT.--UPON REFUSAL TO ACCEPT PAYMENT OF  
24 THE DAMAGES OR OF THE ESTIMATED JUST COMPENSATION UNDER SECTION  
25 307 (RELATING TO POSSESSION, RIGHT OF ENTRY AND PAYMENT OF  
26 COMPENSATION) OR IF THE PARTY ENTITLED THERETO CANNOT BE FOUND  
27 OR IF FOR ANY OTHER REASON THE AMOUNT CANNOT BE PAID TO THE  
28 PARTY ENTITLED THERETO, THE COURT, UPON PETITION OF THE  
29 CONDEMNOR, WHICH SHALL INCLUDE A SCHEDULE OF PROPOSED  
30 DISTRIBUTION, MAY DIRECT PAYMENT AND COSTS INTO COURT OR AS THE

1 COURT MAY DIRECT IN FULL SATISFACTION. THE CONDEMNOR SHALL GIVE  
2 20 DAYS' NOTICE OF THE PRESENTATION OF THE PETITION, INCLUDING A  
3 COPY OF THE SCHEDULE OF THE PROPOSED DISTRIBUTION, TO ALL  
4 PARTIES IN INTEREST KNOWN TO THE CONDEMNOR IN ANY MANNER AS THE  
5 COURT MAY DIRECT BY GENERAL RULE OR SPECIAL ORDER. IF THE COURT  
6 IS SATISFIED IN A PARTICULAR CASE THAT THE CONDEMNOR FAILED TO  
7 USE REASONABLE DILIGENCE IN GIVING NOTICE, THE COURT MAY, UPON  
8 PETITION OF ANY PARTY IN INTEREST ADVERSELY AFFECTED BY THE  
9 FAILURE TO GIVE NOTICE, ORDER THAT COMPENSATION FOR DELAY IN  
10 PAYMENT BE AWARDED TO THE PARTY FOR THE PERIOD AFTER DEPOSIT IN  
11 COURT BY THE CONDEMNOR UNDER THIS SECTION UNTIL THE TIME THE  
12 PARTY IN INTEREST HAS RECEIVED A DISTRIBUTION OF FUNDS UNDER  
13 THIS SECTION.

14 (B) DISTRIBUTION.--THE COURT, UPON PETITION OF ANY PARTY IN  
15 INTEREST, SHALL DISTRIBUTE THE FUNDS PAID UNDER SUBSECTION (A)  
16 OR ANY FUNDS DEPOSITED IN COURT UNDER SECTION 307 TO THE PERSONS  
17 ENTITLED THERETO IN ACCORDANCE WITH THE PROCEDURE IN SECTION 521  
18 (RELATING TO LIENS AND DISTRIBUTION OF DAMAGES), BUT, IF NO  
19 PETITION IS PRESENTED WITHIN A PERIOD OF FIVE YEARS OF THE DATE  
20 OF PAYMENT INTO COURT, THE COURT SHALL ORDER THE FUND OR ANY  
21 BALANCE REMAINING TO BE PAID TO THE COMMONWEALTH WITHOUT  
22 ESCHEAT. NO FEE SHALL BE CHARGED AGAINST THESE FUNDS.

23 CHAPTER 7

24 JUST COMPENSATION AND MEASURE OF DAMAGES

25 SEC.

26 701. JUST COMPENSATION.

27 702. MEASURE OF DAMAGES.

28 703. FAIR MARKET VALUE.

29 704. EFFECT OF IMMINENCE OF CONDEMNATION.

30 705. CONTIGUOUS TRACTS AND UNITY OF USE.

1 706. EFFECT OF CONDEMNATION USE ON AFTER VALUE.  
2 707. REMOVAL OF MACHINERY, EQUIPMENT OR FIXTURES.  
3 708. EXPENSES INCIDENTAL TO TRANSFER OF TITLE.  
4 709. CONDEMNEE'S COSTS WHERE NO DECLARATION OF TAKING FILED.  
5 710. LIMITED REIMBURSEMENT OF APPRAISAL, ATTORNEY AND  
6 ENGINEERING FEES.  
7 711. PAYMENT ON ACCOUNT OF INCREASED MORTGAGE COSTS.  
8 712. LOSS OF RENTALS BECAUSE OF IMMINENCE OF CONDEMNATION.  
9 713. DELAY COMPENSATION.  
10 714. CONSEQUENTIAL DAMAGES.  
11 715. DAMAGES FOR VACATION OF ROADS.  
12 716. ATTEMPTED AVOIDANCE OF MONETARY JUST COMPENSATION.

13 § 701. JUST COMPENSATION.

14 THE CONDEMNEE SHALL BE ENTITLED TO JUST COMPENSATION FOR THE  
15 TAKING, INJURY OR DESTRUCTION OF HIS PROPERTY, DETERMINED AS SET  
16 FORTH IN THIS CHAPTER.

17 § 702. MEASURE OF DAMAGES.

18 (A) JUST COMPENSATION.--JUST COMPENSATION SHALL CONSIST OF  
19 THE DIFFERENCE BETWEEN THE FAIR MARKET VALUE OF THE CONDEMNEE'S  
20 ENTIRE PROPERTY INTEREST IMMEDIATELY BEFORE THE CONDEMNATION AND  
21 AS UNAFFECTED BY THE CONDEMNATION AND THE FAIR MARKET VALUE OF  
22 HIS PROPERTY INTEREST REMAINING IMMEDIATELY AFTER THE  
23 CONDEMNATION AND AS AFFECTED BY THE CONDEMNATION AND ANY OTHER  
24 DAMAGES AS PROVIDED IN THIS TITLE.

25 (B) URBAN DEVELOPMENT OR REDEVELOPMENT CONDEMNATION.--IN THE  
26 CASE OF THE CONDEMNATION OF PROPERTY IN CONNECTION WITH ANY  
27 URBAN DEVELOPMENT OR REDEVELOPMENT PROJECT, WHICH PROPERTY IS  
28 DAMAGED BY SUBSIDENCE DUE TO FAILURE OF SURFACE SUPPORT  
29 RESULTING FROM THE EXISTENCE OF MINE TUNNELS OR PASSAGEWAYS  
30 UNDER THE PROPERTY OR BY REASON OF FIRES OCCURRING IN MINE

1 TUNNELS OR PASSAGEWAYS OR OF BURNING COAL REFUSE BANKS, THE  
2 DAMAGE RESULTING FROM THIS SUBSIDENCE OR UNDERGROUND FIRES OR  
3 BURNING COAL REFUSE BANKS SHALL BE EXCLUDED IN DETERMINING THE  
4 FAIR MARKET VALUE OF THE CONDEMNEE'S ENTIRE PROPERTY INTEREST  
5 IMMEDIATELY BEFORE THE CONDEMNATION.

6 (C) VALUE OF PROPERTY DAMAGED BY NATURAL DISASTER.--IN THE  
7 CASE OF THE CONDEMNATION OF PROPERTY IN CONNECTION WITH ANY  
8 PROGRAM OR PROJECT, WHICH PROPERTY IS DAMAGED BY ANY NATURAL  
9 DISASTER, THE DAMAGE RESULTING FROM THE NATURAL DISASTER SHALL  
10 BE EXCLUDED IN DETERMINING FAIR MARKET VALUE OF THE CONDEMNEE'S  
11 ENTIRE PROPERTY INTEREST IMMEDIATELY BEFORE THE CONDEMNATION.

12 (D) APPLICABILITY OF NATURAL DISASTER PROVISIONS.--  
13 SUBSECTION (C) IS APPLICABLE ONLY WHERE THE DAMAGE RESULTING  
14 FROM THE NATURAL DISASTER HAS OCCURRED WITHIN FIVE YEARS PRIOR  
15 TO THE INITIATION OF NEGOTIATIONS FOR OR NOTICE OF INTENT TO  
16 ACQUIRE OR ORDER TO VACATE THE PROPERTY AND DURING THE OWNERSHIP  
17 OF THE PROPERTY BY THE CONDEMNEE. THE DAMAGE TO BE EXCLUDED  
18 SHALL INCLUDE ONLY ACTUAL PHYSICAL DAMAGE TO THE PROPERTY FOR  
19 WHICH THE CONDEMNEE HAS NOT RECEIVED ANY COMPENSATION OR  
20 REIMBURSEMENT.

21 § 703. FAIR MARKET VALUE.

22 FAIR MARKET VALUE SHALL BE THE PRICE WHICH WOULD BE AGREED TO  
23 BY A WILLING AND INFORMED SELLER AND BUYER, TAKING INTO  
24 CONSIDERATION, BUT NOT LIMITED TO, THE FOLLOWING FACTORS:

25 (1) THE PRESENT USE OF THE PROPERTY AND ITS VALUE FOR  
26 THAT USE.

27 (2) THE HIGHEST AND BEST REASONABLY AVAILABLE USE OF THE  
28 PROPERTY AND ITS VALUE FOR THAT USE.

29 (3) THE MACHINERY, EQUIPMENT AND FIXTURES FORMING PART  
30 OF THE REAL ESTATE TAKEN.

(4) OTHER FACTORS AS TO WHICH EVIDENCE MAY BE OFFERED AS  
PROVIDED BY CHAPTER 11 (RELATING TO EVIDENCE).

§ 704. EFFECT OF IMMINENCE OF CONDEMNATION.

ANY CHANGE IN THE FAIR MARKET VALUE PRIOR TO THE DATE OF  
CONDEMNATION WHICH THE CONDEMNOR OR CONDEMNEE ESTABLISHES WAS  
SUBSTANTIALLY DUE TO THE GENERAL KNOWLEDGE OF THE IMMINENCE OF  
CONDEMNATION, OTHER THAN THAT DUE TO PHYSICAL DETERIORATION OF  
THE PROPERTY WITHIN THE REASONABLE CONTROL OF THE CONDEMNEE,  
SHALL BE DISREGARDED IN DETERMINING FAIR MARKET VALUE.

§ 705. CONTIGUOUS TRACTS AND UNITY OF USE.

WHERE ALL OR A PART OF SEVERAL CONTIGUOUS TRACTS IN  
SUBSTANTIALLY IDENTICAL OWNERSHIP IS CONDEMNED OR A PART OF  
SEVERAL NONCONTIGUOUS TRACTS IN SUBSTANTIALLY IDENTICAL  
OWNERSHIP WHICH ARE USED TOGETHER FOR A UNIFIED PURPOSE IS  
CONDEMNED, DAMAGES SHALL BE ASSESSED AS IF THE TRACTS WERE ONE  
PARCEL.

§ 706. EFFECT OF CONDEMNATION USE ON AFTER VALUE.

IN DETERMINING THE FAIR MARKET VALUE OF THE REMAINING  
PROPERTY AFTER A PARTIAL TAKING, CONSIDERATION SHALL BE GIVEN TO  
THE USE TO WHICH THE PROPERTY CONDEMNED IS TO BE PUT AND THE  
DAMAGES OR BENEFITS SPECIALLY AFFECTING THE REMAINING PROPERTY  
DUE TO ITS PROXIMITY TO THE IMPROVEMENT FOR WHICH THE PROPERTY  
WAS TAKEN. CONSIDERATION SHALL ALSO BE GIVEN TO ANY TIME  
DISCOUNT, INCONVENIENCE OR OTHER EFFECTS OF THE CONSTRUCTION  
PERIOD, WHICH WOULD HAVE MATERIALLY AFFECTED THE PRICE WHICH THE  
CONDEMNEE WOULD HAVE RECEIVED HAD HE SOLD THE REMAINING PROPERTY  
TO A THIRD PARTY IMMEDIATELY AFTER THE DATE OF CONDEMNATION BUT  
BEFORE COMPLETION OF THE IMPROVEMENT. FUTURE DAMAGES AND GENERAL  
BENEFITS WHICH WILL AFFECT THE ENTIRE COMMUNITY BEYOND THE  
PROPERTIES DIRECTLY ABUTTING THE PROPERTY TAKEN SHALL NOT BE

1 CONSIDERED IN ARRIVING AT THE AFTER VALUE. SPECIAL BENEFITS TO  
2 THE REMAINING PROPERTY SHALL IN NO EVENT EXCEED THE TOTAL  
3 DAMAGES EXCEPT IN CASES WHERE THE CONDEMNOR IS AUTHORIZED UNDER  
4 EXISTING LAW TO MAKE SPECIAL ASSESSMENTS FOR BENEFITS.

5 § 707. REMOVAL OF MACHINERY, EQUIPMENT OR FIXTURES.

6 IN THE EVENT THE CONDEMNOR DOES NOT REQUIRE FOR ITS USE  
7 MACHINERY, EQUIPMENT OR FIXTURES FORMING PART OF THE REAL  
8 ESTATE, IT SHALL SO NOTIFY THE CONDEMNEE. THE CONDEMNEE MAY  
9 WITHIN 30 DAYS OF THE NOTICE ELECT TO REMOVE THE MACHINERY,  
10 EQUIPMENT OR FIXTURES UNLESS THE TIME IS EXTENDED BY THE  
11 CONDEMNOR. IF THE CONDEMNEE SO ELECTS, THE DAMAGES SHALL BE  
12 REDUCED BY THE FAIR MARKET VALUE OF THE MACHINERY, EQUIPMENT OR  
13 FIXTURES SEVERED FROM THE REAL ESTATE.

14 § 708. EXPENSES INCIDENTAL TO TRANSFER OF TITLE.

15 ANY ACQUIRING AGENCY SHALL, ON THE DATE OF PAYMENT OF THE  
16 PURCHASE PRICE OF AMICABLY ACQUIRED REAL PROPERTY OR OF PAYMENT  
17 OR TENDER OF ESTIMATED JUST COMPENSATION IN A CONDEMNATION  
18 PROCEEDING TO ACQUIRE REAL PROPERTY, WHICHEVER IS EARLIER OR AS  
19 SOON AS IS PRACTICABLE, REIMBURSE THE OWNER FOR EXPENSES HE  
20 NECESSARILY INCURRED FOR:

21 (1) RECORDING FEES, TRANSFER TAXES AND SIMILAR EXPENSES  
22 INCIDENTAL TO CONVEYING THE REAL PROPERTY TO THE ACQUIRING  
23 AGENCY.

24 (2) PENALTY COSTS FOR PREPAYMENT FOR ANY PREEXISTING  
25 RECORDED MORTGAGE ENTERED INTO IN GOOD FAITH ENCUMBERING THE  
26 REAL PROPERTY.

27 (3) THE PRO RATA PORTION OF REAL PROPERTY TAXES PAID  
28 WHICH ARE ALLOCABLE TO A PERIOD SUBSEQUENT TO THE DATE OF  
29 VESTING TITLE IN THE ACQUIRING AGENCY OR THE EFFECTIVE DATE  
30 OF POSSESSION OF THE REAL PROPERTY BY THE ACQUIRING AGENCY,



WHICHEVER IS EARLIER.

(4) THE PRO RATA PORTION OF WATER AND SEWER CHARGES PAID TO A TAXING ENTITY OR A LOCAL AUTHORITY ALLOCABLE TO A PERIOD SUBSEQUENT TO THE EFFECTIVE DATE OF POSSESSION OF THE REAL PROPERTY BY THE ACQUIRING AGENCY.

§ 709. CONDEMNEE'S COSTS WHERE NO DECLARATION OF TAKING FILED.

WHERE PROCEEDINGS ARE INSTITUTED BY A CONDEMNEE UNDER SECTION 502(C) (RELATING TO PETITION FOR APPOINTMENT OF VIEWERS), A JUDGMENT AWARDED COMPENSATION TO THE CONDEMNEE FOR THE TAKING OF PROPERTY SHALL INCLUDE REIMBURSEMENT OF REASONABLE APPRAISAL, ATTORNEY AND ENGINEERING FEES AND OTHER COSTS AND EXPENSES ACTUALLY INCURRED.

§ 710. LIMITED REIMBURSEMENT OF APPRAISAL, ATTORNEY AND ENGINEERING FEES.

(A) GENERAL RULE.--THE OWNER OF ANY RIGHT, TITLE OR INTEREST IN REAL PROPERTY ACQUIRED OR INJURED BY AN ACQUIRING AGENCY, WHO IS NOT ELIGIBLE FOR REIMBURSEMENT OF FEES UNDER SECTION 306(G) (RELATING TO PRELIMINARY OBJECTIONS), 308(D) (RELATING TO REVOCATION OF CONDEMNATION PROCEEDINGS) OR 709 (RELATING TO CONDEMNEE'S COSTS WHERE NO DECLARATION OF TAKING FILED), SHALL BE REIMBURSED IN AN AMOUNT NOT TO EXCEED \$1,000 AS A PAYMENT TOWARD REASONABLE EXPENSES ACTUALLY INCURRED FOR APPRAISAL, ATTORNEY AND ENGINEERING FEES.

(B) ATTORNEY FEES.--IN DETERMINING REASONABLE ATTORNEY FEES UNDER SECTIONS 306(G), 308(D) AND 709, THE COURT SHALL CONSIDER ALL OF THE CIRCUMSTANCES OF THE CASE, INCLUDING, BUT NOT LIMITED TO, TIME RECORDS IF AVAILABLE.

(C) APPRAISAL AND ENGINEERING FEES.--THE CONDEMNEE'S ATTORNEY OF RECORD SHALL PRESENT ALL EVIDENCE OF REASONABLE APPRAISAL OR ENGINEERING FEES RECOVERABLE UNDER SECTIONS 306(G),

1 308(D) AND 709. THE CONDEMNEE'S ATTORNEY OF RECORD SHALL COLLECT  
2 ALL OF THE FEES RECOVERED AND TRANSMIT THEM TO THE APPRAISER AND  
3 ENGINEER.

4 § 711. PAYMENT ON ACCOUNT OF INCREASED MORTGAGE COSTS.

5 (A) REIMBURSEMENT OF OWNER.--WHENEVER THE ACQUISITION OF  
6 PROPERTY BY AN ACQUIRING AGENCY RESULTS IN THE TERMINATION OF AN  
7 INSTALLMENT PURCHASE CONTRACT, MORTGAGE OR OTHER EVIDENCE OF  
8 DEBT ON THE ACQUIRED PROPERTY, REQUIRING THE LEGAL OR EQUITABLE  
9 OWNER TO ENTER INTO ANOTHER INSTALLMENT PURCHASE CONTRACT,  
10 MORTGAGE OR OTHER EVIDENCE OF DEBT ON THE PROPERTY PURCHASED FOR  
11 THE SAME USE AS THE ACQUIRED PROPERTY, A LEGAL OR EQUITABLE  
12 OWNER WHO DOES NOT QUALIFY FOR A PAYMENT UNDER SECTION 902(A)(2)  
13 (RELATING TO REPLACEMENT HOUSING FOR HOMEOWNERS) SHALL BE  
14 COMPENSATED FOR ANY INCREASED INTEREST AND OTHER DEBT SERVICE  
15 COSTS WHICH HE IS REQUIRED TO PAY FOR FINANCING THE ACQUISITION  
16 OF THE REPLACEMENT PROPERTY.

17 (B) DETERMINATION OF AMOUNT.--COMPENSATION FOR ANY INCREASED  
18 INTEREST AND OTHER DEBT SERVICE COSTS SHALL BE EQUAL TO THE  
19 EXCESS IN THE AGGREGATE INTEREST AND OTHER DEBT SERVICE COSTS OF  
20 THAT AMOUNT ON THE PRINCIPAL OF THE INSTALLMENT PURCHASE  
21 CONTRACT, MORTGAGE OR OTHER EVIDENCE OF DEBT ON THE REPLACEMENT  
22 PROPERTY WHICH IS EQUAL TO THE UNPAID BALANCE OF THE INSTALLMENT  
23 PURCHASE CONTRACT, MORTGAGE OR OTHER EVIDENCE OF DEBT ON THE  
24 ACQUIRED PROPERTY OVER THE REMAINING TERM OF THE INSTALLMENT  
25 PURCHASE CONTRACT, MORTGAGE OR OTHER EVIDENCE OF DEBT ON THE  
26 ACQUIRED PROPERTY REDUCED TO PRESENT WORTH. THE DISCOUNT RATE TO  
27 BE USED IN REDUCING TO PRESENT WORTH SHALL BE THE PREVAILING  
28 INTEREST RATE PAID ON SAVINGS DEPOSITS BY COMMERCIAL BANKS IN  
29 THE GENERAL AREA IN WHICH THE REPLACEMENT PROPERTY IS LOCATED.  
30 THE AMOUNT SHALL BE PAID ONLY IF THE ACQUIRED PROPERTY WAS

1 SUBJECT TO AN INSTALLMENT PURCHASE CONTRACT OR ENCUMBERED BY A  
2 BONA FIDE MORTGAGE OR OTHER EVIDENCE OF DEBT SECURED BY THE  
3 PROPERTY WHICH WAS A VALID LIEN ON THE PROPERTY FOR NOT LESS  
4 THAN 180 DAYS PRIOR TO THE INITIATION OF NEGOTIATIONS FOR THE  
5 ACQUISITION OF THE PROPERTY.

6 § 712. LOSS OF RENTALS BECAUSE OF IMMINENCE OF CONDEMNATION.

7 THE CONDEMNEE SHALL BE ENTITLED TO RECEIVE AS SPECIAL DAMAGES  
8 COMPENSATION FOR ANY LOSS, SUFFERED PRIOR TO THE DATE OF TAKING,  
9 CAUSED BY A REDUCTION OF INCOME FROM RENTALS WHICH THE CONDEMNEE  
10 ESTABLISHES WAS SUBSTANTIALLY DUE TO THE GENERAL KNOWLEDGE OF  
11 THE IMMINENCE OF CONDEMNATION, OTHER THAN THAT DUE TO PHYSICAL  
12 DETERIORATION OF THE PROPERTY WITHIN THE REASONABLE CONTROL OF  
13 THE CONDEMNEE. THIS SECTION IS APPLICABLE ONLY TO LOSSES OF  
14 RENTAL INCOME SUFFERED FOLLOWING A 60-DAY PERIOD SUBSEQUENT TO  
15 WRITTEN NOTICE FROM THE CONDEMNEE TO THE CONDEMNOR THAT LOSSES  
16 OF RENTAL INCOME ARE BEING SUFFERED. TOTAL DAMAGES UNDER THIS  
17 SECTION SHALL NOT EXCEED \$10,000.

18 § 713. DELAY COMPENSATION.

19 (A) GENERAL RULE.--A CONDEMNEE OR DISPLACED PERSON SHALL BE  
20 ENTITLED TO DELAY COMPENSATION:

21 (1) ON GENERAL DAMAGES, INCLUDING DAMAGES PAYABLE UNDER  
22 SECTIONS 714 (RELATING TO CONSEQUENTIAL DAMAGES) AND 715  
23 (RELATING TO DAMAGES FOR VACATION OF ROADS), FROM THE DATE OF  
24 RELINQUISHMENT OF POSSESSION OF THE CONDEMNED PROPERTY OR, IF  
25 POSSESSION IS NOT REQUIRED TO EFFECTUATE THE CONDEMNATION,  
26 FROM THE DATE OF CONDEMNATION; AND

27 (2) ON DAMAGES PAYABLE UNDER SECTIONS 708 (RELATING TO  
28 EXPENSES INCIDENTAL TO TRANSFER OF TITLE), 711 (RELATING TO  
29 PAYMENT ON ACCOUNT OF INCREASED MORTGAGE COSTS) AND 712  
30 (RELATING TO LOSS OF RENTALS BECAUSE OF IMMINENCE OF

1 CONDEMNATION) AND CHAPTER 9 (RELATING TO SPECIAL DAMAGES FOR  
2 DISPLACEMENT) FROM 60 DAYS AFTER THE CONDEMNEE OR DISPLACED  
3 PERSON PROVIDES SATISFACTORY DOCUMENTATION TO THE CONDEMNOR  
4 THAT THE REIMBURSABLE COSTS OR EXPENSES HAVE BEEN INCURRED BY  
5 THE CONDEMNEE OR DISPLACED PERSON OR THAT THE PROPERTY  
6 QUALIFIES FOR PAYMENT UNDER SECTION 901(B) (RELATING TO  
7 MOVING AND RELATED EXPENSES OF DISPLACED PERSONS).

8 (B) WHEN CONDEMNEE NOT ENTITLED.--NO COMPENSATION FOR DELAY  
9 SHALL BE PAYABLE WITH RESPECT TO FUNDS PAID ON ACCOUNT OR BY  
10 DEPOSIT IN COURT AFTER THE DATE OF THE PAYMENT OR DEPOSIT OR FOR  
11 ANY TIME DURING WHICH PRELIMINARY OBJECTIONS FILED BY THE  
12 CONDEMNEE ARE PENDING.

13 (C) RATE OF INTEREST.--THE APPLICABLE RATE OF INTEREST FOR  
14 COMPENSATION FOR DELAY FOR EACH CALENDAR YEAR OR PORTION OF A  
15 CALENDAR YEAR SHALL BE EQUAL TO THE ANNUAL INDEX OF LONG-TERM  
16 UNITED STATES GOVERNMENT BOND YIELDS FOR THAT YEAR OR, WHEN AN  
17 ANNUAL INDEX FOR A PORTION OF A YEAR HAS NOT BEEN PUBLISHED BY  
18 THE SECRETARY OF BANKING, THE MOST RECENTLY PUBLISHED INDEX.

19 (D) WHEN CALCULATION OF DELAY COMPENSATION MADE.--  
20 COMPENSATION FOR DELAY SHALL NOT BE INCLUDED BY THE VIEWERS OR  
21 THE COURT OR JURY ON APPEAL AS PART OF THE AWARD OR VERDICT, BUT  
22 SHALL, AT THE TIME OF PAYMENT OF THE AWARD OR JUDGMENT, BE  
23 CALCULATED AS PROVIDED IN SUBSECTION (C) AND ADDED TO THE AWARD  
24 OR VERDICT. THERE SHALL BE NO FURTHER OR ADDITIONAL PAYMENT OF  
25 INTEREST ON THE AWARD OR VERDICT.

26 (E) SECRETARY OF BANKING.--ON OR BEFORE EACH JANUARY 20, THE  
27 SECRETARY OF BANKING SHALL HAVE PUBLISHED IN THE PENNSYLVANIA  
28 BULLETIN THE ANNUAL INDEX OF LONG-TERM UNITED STATES GOVERNMENT  
29 BOND YIELDS FOR EACH OF THE PRECEDING TEN YEARS.

30 § 714. CONSEQUENTIAL DAMAGES.

1 ALL CONDEMNORS, INCLUDING THE COMMONWEALTH, SHALL BE LIABLE  
2 FOR DAMAGES TO PROPERTY ABUTTING THE AREA OF AN IMPROVEMENT  
3 RESULTING FROM CHANGE OF GRADE OF A ROAD OR HIGHWAY, PERMANENT  
4 INTERFERENCE WITH ACCESS OR INJURY TO SURFACE SUPPORT, WHETHER  
5 OR NOT ANY PROPERTY IS TAKEN.

6 § 715. DAMAGES FOR VACATION OF ROADS.

7 WHENEVER A PUBLIC ROAD, STREET OR HIGHWAY IS VACATED, THE  
8 AFFECTED OWNERS MAY RECOVER DAMAGES FOR ANY INJURIES SUSTAINED,  
9 EVEN THOUGH NO LAND IS ACTUALLY TAKEN.

10 § 716. ATTEMPTED AVOIDANCE OF MONETARY JUST COMPENSATION.

11 WHERE A CONDEMNOR ATTEMPTS TO AVOID THE PAYMENT OF MONETARY  
12 JUST COMPENSATION TO WHICH THE CONDEMNEE OTHERWISE WOULD BE  
13 ENTITLED BY USE OF A SUBSTITUTE FOR MONETARY COMPENSATION AND  
14 THE CONDEMNEE INCURS EXPENSES, INCLUDING APPRAISAL, ATTORNEY AND  
15 ENGINEERING FEES, IN SECURING AN ADJUDICATION THAT THE  
16 SUBSTITUTE IS NOT ADEQUATE, THE CONDEMNEE SHALL BE REIMBURSED BY  
17 THE CONDEMNOR FOR ALL THESE EXPENSES INCURRED.

18 CHAPTER 9

19 SPECIAL DAMAGES FOR DISPLACEMENT

20 SEC.

21 901. MOVING AND RELATED EXPENSES OF DISPLACED PERSONS.

22 902. REPLACEMENT HOUSING FOR HOMEOWNERS.

23 903. REPLACEMENT HOUSING FOR TENANTS AND OTHERS.

24 904. HOUSING REPLACEMENT AUTHORIZATION.

25 905. REGULATIONS.

26 906. PAYMENTS NOT TO BE CONSIDERED AS INCOME OR RESOURCES.

27 § 901. MOVING AND RELATED EXPENSES OF DISPLACED PERSONS.

28 (A) REASONABLE EXPENSES INCURRED.--ANY DISPLACED PERSON  
29 SHALL BE REIMBURSED FOR REASONABLE EXPENSES INCURRED IN MOVING  
30 HIMSELF AND HIS FAMILY AND FOR THE REMOVAL, TRANSPORTATION AND

1 REINSTALLATION OF PERSONAL PROPERTY.

2 (1) RECEIPTS SHALL BE PRIMA FACIE EVIDENCE OF INCURRED  
3 REASONABLE MOVING EXPENSES.

4 (2) ANY DISPLACED PERSON WHO IS DISPLACED FROM A  
5 DWELLING MAY ELECT TO RECEIVE, IN LIEU OF REIMBURSEMENT OF  
6 INCURRED MOVING EXPENSES, A MOVING EXPENSE AND DISLOCATION  
7 ALLOWANCE DETERMINED IN ACCORDANCE WITH REGULATIONS  
8 PROMULGATED IN ACCORDANCE WITH THIS TITLE.

9 (B) DAMAGES FOR DISLOCATION OF BUSINESS OR FARM OPERATION.--  
10 ANY DISPLACED PERSON WHO IS DISPLACED FROM HIS PLACE OF BUSINESS  
11 OR FROM HIS FARM OPERATION SHALL BE ENTITLED, IN ADDITION TO ANY  
12 PAYMENT RECEIVED UNDER SUBSECTION (A), TO DAMAGES FOR  
13 DISLOCATION OF HIS BUSINESS OR FARM OPERATION AS FOLLOWS:

14 (1) DAMAGES EQUAL TO THE VALUE IN PLACE OF THE PERSONAL  
15 PROPERTY WHICH:

16 (I) IS NOT MOVED BECAUSE OF THE DISCONTINUANCE OF  
17 THE BUSINESS OR FARM OPERATION OR THE UNAVAILABILITY OF A  
18 COMPARABLE SITE FOR RELOCATION; OR

19 (II) CANNOT BE MOVED WITHOUT SUBSTANTIALLY  
20 DESTROYING OR DIMINISHING ITS UTILITY IN THE RELOCATED  
21 BUSINESS OR FARM OPERATION.

22 (2) IN LIEU OF THE DAMAGES PROVIDED IN PARAGRAPH (1), AT  
23 THE OPTION OF THE DISPLACED PERSON, AN AMOUNT NOT TO EXCEED  
24 \$10,000 TO BE DETERMINED BY TAKING 50% OF THE DIFFERENCE, IF  
25 ANY, BETWEEN THE ORIGINAL COST OF THE PERSONAL PROPERTY TO  
26 THE DISPLACED PERSON OR THE REPLACEMENT COST OF EQUIVALENT  
27 PROPERTY AT THE TIME OF SALE, WHICHEVER IS LOWER, AND THE NET  
28 PROCEEDS OBTAINED BY THE DISPLACED PERSON AT A COMMERCIALY  
29 REASONABLE PRIVATE OR PUBLIC SALE. IF THIS OPTION IS  
30 SELECTED, THE DISPLACED PERSON SHALL GIVE THE ACQUIRING

1 AGENCY NOT LESS THAN 60 DAYS' NOTICE IN WRITING OF HIS  
2 INTENTION TO SEEK DAMAGES UNDER THIS OPTION. THE DISPLACED  
3 PERSON SHALL NOT, DIRECTLY OR INDIRECTLY, PURCHASE ANY OF THE  
4 PERSONAL PROPERTY AT PRIVATE SALE. INVENTORY SHALL BE PAID  
5 FOR UNDER THIS OPTION ONLY IF THE BUSINESS IS NOT RELOCATED.

6 (3) ACTUAL REASONABLE EXPENSES IN SEARCHING FOR A  
7 REPLACEMENT BUSINESS OR FARM DETERMINED IN ACCORDANCE WITH  
8 REGULATIONS PROMULGATED UNDER THIS TITLE.

9 (4) ACTUAL REASONABLE EXPENSES NECESSARY TO REESTABLISH  
10 A DISPLACED FARM, NONPROFIT ORGANIZATION OR SMALL BUSINESS AT  
11 ITS NEW SITE, IN ACCORDANCE WITH CRITERIA TO BE ESTABLISHED  
12 BY REGULATION, BUT NOT TO EXCEED \$10,000.

13 (5) IN LIEU OF DAMAGES UNDER SUBSECTION (A) AND  
14 PARAGRAPH (1), (2), (3) OR (4), DAMAGES IN AN AMOUNT EQUAL TO  
15 THE AVERAGE ANNUAL NET EARNINGS BUT NOT MORE THAN \$20,000 NOR  
16 LESS THAN 1,000. THE TERM "AVERAGE ANNUAL NET EARNINGS" MEANS  
17 ONE-HALF OF ANY NET EARNINGS OF THE BUSINESS OR FARM  
18 OPERATION BEFORE FEDERAL, STATE AND LOCAL INCOME TAXES DURING  
19 THE TWO TAXABLE YEARS IMMEDIATELY PRECEDING THE TAXABLE YEAR  
20 IN WHICH THE BUSINESS OR FARM OPERATION MOVES FROM THE REAL  
21 PROPERTY ACQUIRED FOR A PROJECT, AND INCLUDES ANY  
22 COMPENSATION PAID BY THE BUSINESS OR FARM OPERATION TO THE  
23 OWNER, HIS SPOUSE OR HIS DEPENDENTS DURING THIS PERIOD. THE  
24 REGULATIONS PROMULGATED UNDER THIS TITLE, MAY DESIGNATE  
25 ANOTHER PERIOD DETERMINED TO BE MORE EQUITABLE FOR  
26 ESTABLISHING AVERAGE ANNUAL NET EARNINGS, PROVIDED THAT THE  
27 DESIGNATION OF THE PERIOD DOES NOT PRODUCE A LESSER PAYMENT  
28 THAN WOULD THE USE OF THE LAST TWO TAXABLE YEARS. PAYMENT  
29 SHALL BE MADE ONLY IF THE BUSINESS CANNOT BE RELOCATED  
30 WITHOUT A SUBSTANTIAL LOSS OF PROFITS. A PERSON WHOSE SOLE

BUSINESS AT A DWELLING FROM WHICH HE IS DISPLACED IS THE RENTAL OF SUCH PROPERTY TO OTHERS SHALL NOT QUALIFY FOR A PAYMENT UNDER THIS PARAGRAPH.

§ 902. REPLACEMENT HOUSING FOR HOMEOWNERS.

(A) ADDITIONAL PAYMENTS TO CERTAIN HOMEOWNERS.--IN ADDITION TO PAYMENTS OTHERWISE AUTHORIZED, THE ACQUIRING AGENCY SHALL MAKE AN ADDITIONAL PAYMENT, NOT IN EXCESS OF \$22,500 TO ANY DISPLACED PERSON WHO IS DISPLACED FROM A DWELLING ACTUALLY OWNED AND OCCUPIED BY THE DISPLACED PERSON FOR NOT LESS THAN 180 DAYS PRIOR TO THE INITIATION OF NEGOTIATIONS FOR THE ACQUISITION OF THE PROPERTY OR THE RECEIPT OF WRITTEN NOTICE FROM THE ACQUIRING AGENCY OF INTENT TO ACQUIRE OR ORDER TO VACATE. THE ADDITIONAL PAYMENT SHALL INCLUDE THE FOLLOWING ELEMENTS:

(1) THE AMOUNT, IF ANY, WHICH, WHEN ADDED TO THE ACQUISITION COST OF THE ACQUIRED DWELLING, EQUALS THE REASONABLE COST OF A COMPARABLE REPLACEMENT DWELLING WHICH IS AVAILABLE TO THE DISPLACED PERSON ON THE PRIVATE MARKET.

(2) THE AMOUNT, IF ANY, WHICH WILL COMPENSATE THE DISPLACED PERSON FOR ANY INCREASED INTEREST AND OTHER DEBT SERVICE COSTS WHICH THE PERSON IS REQUIRED TO PAY FOR FINANCING THE ACQUISITION OF ANY COMPARABLE REPLACEMENT DWELLING. SUCH AMOUNT SHALL BE PAID ONLY IF THE ACQUIRED DWELLING WAS SUBJECT TO AN INSTALLMENT PURCHASE CONTRACT OR ENCUMBERED BY A BONA FIDE INSTALLMENT PURCHASE CONTRACT, MORTGAGE OR OTHER EVIDENCE OF DEBT SECURED BY THE DWELLING WHICH WAS A VALID LIEN ON SUCH DWELLING FOR NOT LESS THAN 180 DAYS IMMEDIATELY PRIOR TO THE INITIATION OF NEGOTIATIONS FOR THE ACQUISITION OF SUCH DWELLING.

(3) REASONABLE EXPENSES INCURRED BY THE DISPLACED PERSON FOR EVIDENCE OF TITLE, RECORDING AND ATTORNEY FEES, REAL



1 PROPERTY TRANSFER TAXES AND OTHER CLOSING AND RELATED COSTS  
2 INCIDENT TO THE PURCHASE AND FINANCING OF THE REPLACEMENT  
3 DWELLING, BUT NOT INCLUDING PREPAID EXPENSES.

4 (B) ONE-YEAR TIME PERIOD FOR PURCHASE OF REPLACEMENT  
5 DWELLING.--THE ADDITIONAL PAYMENT AUTHORIZED BY THIS SECTION  
6 SHALL BE MADE ONLY TO A DISPLACED PERSON WHO PURCHASES AND  
7 OCCUPIES A REPLACEMENT DWELLING, WHICH IS DECENT, SAFE, SANITARY  
8 AND ADEQUATE TO ACCOMMODATE THE DISPLACED PERSON, NOT LATER THAN  
9 THE END OF THE ONE-YEAR PERIOD BEGINNING ON THE DATE ON WHICH HE  
10 RECEIVES FINAL PAYMENT OF HIS FULL ACQUISITION COST FOR THE  
11 ACQUIRED DWELLING OR ON THE DATE ON WHICH HE MOVES FROM THE  
12 ACQUIRED DWELLING, WHICHEVER IS LATER. REGULATIONS ISSUED UNDER  
13 SECTION 905 (RELATING TO REGULATIONS) MAY PRESCRIBE SITUATIONS  
14 WHEN THE ONE-YEAR PERIOD MAY BE EXTENDED. IF THE PERIOD IS  
15 EXTENDED, THE PAYMENT UNDER THIS SECTION SHALL BE BASED ON THE  
16 COSTS OF RELOCATING THE PERSON TO A COMPARABLE REPLACEMENT  
17 DWELLING WITHIN ONE YEAR OF THE DATE ON WHICH HE RECEIVED FINAL  
18 PAYMENT OF HIS FULL ACQUISITION COST FOR THE ACQUIRED DWELLING.

19 (C) RIGHT OF ELECTION.--THE PERSON ENTITLED UNDER THIS  
20 SECTION SHALL HAVE THE RIGHT TO ELECT THE BENEFITS AVAILABLE  
21 UNDER SECTION 903 (RELATING TO REPLACEMENT HOUSING FOR TENANTS  
22 AND OTHERS) IN LIEU OF THOSE PROVIDED BY THIS SECTION.

23 § 903. REPLACEMENT HOUSING FOR TENANTS AND OTHERS.

24 (A) PAYMENT TO CERTAIN DISPLACED PERSONS.--

25 (1) IN ADDITION TO AMOUNTS OTHERWISE AUTHORIZED, AN  
26 ACQUIRING AGENCY SHALL MAKE A PAYMENT TO OR FOR ANY DISPLACED  
27 PERSON DISPLACED FROM A DWELLING NOT ELIGIBLE TO RECEIVE A  
28 PAYMENT UNDER SECTION 902 (RELATING TO REPLACEMENT HOUSING  
29 FOR HOMEOWNERS), WHICH DWELLING WAS ACTUALLY AND LAWFULLY  
30 OCCUPIED BY THE DISPLACED PERSON FOR NOT LESS THAN 90 DAYS

1 PRIOR TO THE INITIATION OF NEGOTIATIONS FOR ACQUISITION OF  
2 THE DWELLING OR THE RECEIPT OF WRITTEN NOTICE FROM THE  
3 ACQUIRING AGENCY OF INTENT TO ACQUIRE OR ORDER TO VACATE. THE  
4 PAYMENT SHALL BE THE AMOUNT DETERMINED TO BE NECESSARY TO  
5 ENABLE THE DISPLACED PERSON TO LEASE A COMPARABLE REPLACEMENT  
6 DWELLING FOR A PERIOD NOT TO EXCEED 42 MONTHS. THE AMOUNT  
7 SHALL BE THE ADDITIONAL AMOUNT, IF ANY, OVER THE ACTUAL  
8 RENTAL OR FAIR RENTAL VALUE OF THE ACQUIRED DWELLING AS  
9 DETERMINED IN ACCORDANCE WITH REGULATIONS PROMULGATED UNDER  
10 SECTION 905 (RELATING TO REGULATIONS), BUT NOT TO EXCEED  
11 \$5,250.

12 (2) ANY PERSON ELIGIBLE FOR A PAYMENT UNDER PARAGRAPH  
13 (1) MAY ELECT TO APPLY THE PAYMENT TO A DOWN PAYMENT ON, AND  
14 OTHER INCIDENTAL EXPENSES PURSUANT TO, THE PURCHASE OF A  
15 DECENT, SAFE AND SANITARY REPLACEMENT DWELLING.

16 (B) CONDITION OF PAYMENT.--THE ADDITIONAL PAYMENT AUTHORIZED  
17 BY THIS SECTION SHALL BE MADE ONLY TO A DISPLACED PERSON WHO  
18 OCCUPIES A REPLACEMENT DWELLING WHICH IS DECENT, SAFE AND  
19 SANITARY.

20 § 904. HOUSING REPLACEMENT AUTHORIZATION.

21 (A) SHORT TITLE OF SECTION.--THIS SECTION SHALL BE KNOWN AND  
22 MAY BE CITED AS THE HOUSING REPLACEMENT AUTHORIZATION ACT.

23 (B) HOUSING REPLACEMENTS BY ACQUIRING AGENCY AS LAST  
24 RESORT.--

25 (1) IF COMPARABLE REPLACEMENT SALE OR RENTAL HOUSING IS  
26 NOT AVAILABLE IN THE NEIGHBORHOOD OR COMMUNITY IN WHICH A  
27 PROGRAM OR PROJECT IS LOCATED AND THIS HOUSING CANNOT  
28 OTHERWISE BE MADE AVAILABLE, AS SO CERTIFIED BY THE COUNTY  
29 COMMISSIONERS OR, IN CITIES OF THE FIRST CLASS, BY THE CITY  
30 COUNCIL, THE ACQUIRING AGENCY MAY PURCHASE, CONSTRUCT,

1 RECONSTRUCT OR OTHERWISE PROVIDE REPLACEMENT HOUSING BY USE  
2 OF FUNDS AUTHORIZED FOR THE PROGRAM OR PROJECT. FOR THIS  
3 PURPOSE, THE ACQUIRING AGENCY MAY EXERCISE ITS POWER OF  
4 EMINENT DOMAIN TO ACQUIRE PROPERTY IN FEE SIMPLE OR ANY  
5 LESSER ESTATE AS IT DEEMS ADVISABLE.

6 (2) REPLACEMENT HOUSING PROVIDED UNDER THIS SECTION MAY  
7 BE SOLD, LEASED OR OTHERWISE DISPOSED OF BY THE ACQUIRING  
8 AGENCY, FOR OR WITHOUT CONSIDERATION, TO DISPLACED PERSONS OR  
9 TO NONPROFIT, LIMITED DIVIDEND OR COOPERATIVE ORGANIZATIONS  
10 OR PUBLIC BODIES, ON TERMS AND CONDITIONS AS THE ACQUIRING  
11 AGENCY DEEMS NECESSARY AND PROPER TO EFFECT THE RELOCATION OF  
12 PERSONS DISPLACED BY A PROGRAM OR PROJECT.

13 (3) THE ACQUIRING AGENCY MAY CONTRACT WITH OTHER PUBLIC  
14 AGENCIES OR ANY PERSON FOR THE FINANCING, PLANNING,  
15 ACQUISITION, DEVELOPMENT, CONSTRUCTION, MANAGEMENT, SALE,  
16 LEASE OR OTHER DISPOSITION OF REPLACEMENT HOUSING PROVIDED  
17 UNDER THIS SECTION.

18 (C) PLANNING AND OTHER PRELIMINARY EXPENSES FOR REPLACEMENT  
19 HOUSING.--IN ORDER TO ENCOURAGE AND FACILITATE THE CONSTRUCTION  
20 OR REHABILITATION OF HOUSING TO MEET THE NEEDS OF DISPLACED  
21 PERSONS, ANY GOVERNMENTAL ACQUIRING AGENCY MAY MAKE LOANS AND  
22 GRANTS TO NONPROFIT, LIMITED DIVIDEND OR COOPERATIVE  
23 ORGANIZATIONS OR PUBLIC BODIES FOR NECESSARY AND REASONABLE  
24 EXPENSES, PRIOR TO CONSTRUCTION, FOR PLANNING AND OBTAINING  
25 MORTGAGE FINANCING FOR THE REHABILITATION OR CONSTRUCTION OF  
26 HOUSING FOR THESE DISPLACED PERSONS. THESE LOANS AND GRANTS  
27 SHALL BE MADE PRIOR TO THE AVAILABILITY OF FINANCING FOR ITEMS  
28 SUCH AS PRELIMINARY SURVEYS AND ANALYSES OF MARKET NEEDS,  
29 PRELIMINARY SITE ENGINEERING, PRELIMINARY ARCHITECTURAL FEES,  
30 LEGAL, APPRAISAL AND ORGANIZATIONAL FEES, SITE ACQUISITION,

1 APPLICATION AND MORTGAGE COMMITMENT FEES, CONSTRUCTION LOAN FEES  
2 AND DISCOUNTS AND SIMILAR ITEMS. LOANS TO AN ORGANIZATION  
3 ESTABLISHED FOR PROFIT SHALL BEAR INTEREST AT MARKET RATE  
4 DETERMINED BY THE ACQUIRING AGENCY. ALL OTHER LOANS AND GRANTS  
5 SHALL BE WITHOUT INTEREST. THE ACQUIRING AGENCY SHALL REQUIRE  
6 REPAYMENT OF LOANS AND GRANTS MADE UNDER THIS SECTION, UNDER ANY  
7 TERMS AND CONDITIONS IT REQUIRES, UPON COMPLETION OF THE PROJECT  
8 OR SOONER. HOWEVER, EXCEPT IN THE CASE OF A LOAN TO AN  
9 ORGANIZATION ESTABLISHED FOR PROFIT, THE ACQUIRING AGENCY MAY  
10 CANCEL ANY PART OR ALL OF A LOAN AND MAY CANCEL THE REPAYMENT  
11 PROVISIONS OF A GRANT IF IT DETERMINES THAT A PERMANENT LOAN TO  
12 FINANCE THE REHABILITATION OR THE CONSTRUCTION OF THE HOUSING  
13 CANNOT BE OBTAINED IN AN AMOUNT ADEQUATE FOR REPAYMENT OF THE  
14 LOAN.

15 (D) AVAILABILITY OF FUNDS.--FUNDS, INCLUDING MOTOR LICENSE  
16 FUNDS AND OTHER SPECIAL FUNDS, APPROPRIATED OR OTHERWISE  
17 AVAILABLE TO ANY ACQUIRING AGENCY FOR A PROGRAM OR PROJECT,  
18 WHICH RESULTS IN THE DISPLACEMENT OF ANY PERSON, SHALL BE  
19 AVAILABLE ALSO FOR OBLIGATIONS AND EXPENDITURES TO CARRY OUT THE  
20 PROVISIONS OF THIS SECTION.

21 § 905. REGULATIONS.

22 THE GENERAL COUNSEL SHALL PROMULGATE RULES AND REGULATIONS  
23 NECESSARY TO ASSURE THAT:

24 (1) THE PAYMENTS AUTHORIZED BY THIS CHAPTER SHALL BE  
25 MADE IN A MANNER WHICH IS FAIR AND REASONABLE AND AS UNIFORM  
26 AS PRACTICABLE.

27 (2) A DISPLACED PERSON WHO MAKES PROPER APPLICATION FOR  
28 A PAYMENT AUTHORIZED FOR THAT PERSON BY THIS CHAPTER SHALL BE  
29 PAID PROMPTLY AFTER A MOVE OR, IN HARDSHIP CASES, BE PAID IN  
30 ADVANCE.

(3) ANY PERSON AGGRIEVED BY A DETERMINATION AS TO  
ELIGIBILITY FOR A PAYMENT AUTHORIZED BY THIS CHAPTER OR THE  
AMOUNT OF A PAYMENT MAY ELECT TO HAVE HIS APPLICATION  
REVIEWED BY THE HEAD OF THE ACQUIRING AGENCY.

(4) EACH DISPLACED PERSON SHALL RECEIVE THE MAXIMUM  
PAYMENTS AUTHORIZED BY THIS CHAPTER.

(5) EACH ACQUIRING AGENCY MAY OBTAIN THE MAXIMUM FEDERAL  
REIMBURSEMENT FOR RELOCATION PAYMENT AND ASSISTANCE COSTS  
AUTHORIZED BY ANY FEDERAL LAW.

§ 906. PAYMENTS NOT TO BE CONSIDERED AS INCOME OR RESOURCES.

NO PAYMENT RECEIVED BY A DISPLACED PERSON UNDER THIS CHAPTER  
SHALL BE CONSIDERED AS INCOME OR RESOURCES FOR THE PURPOSE OF  
DETERMINING THE ELIGIBILITY OR EXTENT OF ELIGIBILITY OF ANY  
PERSON FOR ASSISTANCE UNDER ANY STATE LAW OR FOR THE PURPOSES OF  
THE STATE OR LOCAL PERSONAL INCOME OR WAGE TAX LAWS, CORPORATION  
TAX LAWS OR OTHER TAX LAWS. NO PAYMENTS UNDER THIS CHAPTER,  
EXCEPT THOSE PROVIDED FOR IN SECTION 901(B) (RELATING TO MOVING  
AND RELATED EXPENSES OF DISPLACED PERSONS), SHALL BE SUBJECT TO  
ATTACHMENT OR EXECUTION AT LAW OR IN EQUITY.

## CHAPTER 11

### EVIDENCE

SEC.

1101. VIEWERS' HEARING.

1102. CONDEMNOR'S EVIDENCE BEFORE VIEWERS.

1103. TRIAL IN COURT ON APPEAL.

1104. COMPETENCY OF CONDEMNEE AS WITNESS.

1105. EVIDENCE GENERALLY.

1106. USE OF CONDEMNED PROPERTY.

§ 1101. VIEWERS' HEARING.

THE VIEWERS MAY HEAR TESTIMONY, RECEIVE EVIDENCE AND MAKE

1 INDEPENDENT INVESTIGATION AS THEY DEEM APPROPRIATE, WITHOUT  
2 BEING BOUND BY FORMAL RULES OF EVIDENCE.

3 § 1102. CONDEMNOR'S EVIDENCE BEFORE VIEWERS.

4 THE CONDEMNOR SHALL, AT THE HEARING BEFORE THE VIEWERS,  
5 PRESENT EXPERT TESTIMONY OF THE AMOUNT OF DAMAGES SUFFERED BY  
6 THE CONDEMNEE.

7 § 1103. TRIAL IN COURT ON APPEAL.

8 AT THE TRIAL IN COURT ON APPEAL:

9 (1) EITHER PARTY MAY, AS A MATTER OF RIGHT, HAVE THE  
10 JURY OR THE JUDGE IN A TRIAL WITHOUT A JURY VIEW THE PROPERTY  
11 INVOLVED, NOTWITHSTANDING THAT STRUCTURES HAVE BEEN  
12 DEMOLISHED OR THE SITE ALTERED, AND THE VIEW SHALL BE  
13 EVIDENTIARY. IF THE TRIAL IS WITH A JURY, THE TRIAL JUDGE  
14 SHALL ACCOMPANY THE JURY ON THE VIEW.

15 (2) IF ANY VALUATION EXPERT WHO HAS NOT PREVIOUSLY  
16 TESTIFIED BEFORE THE VIEWERS IS TO TESTIFY, THE PARTY CALLING  
17 HIM MUST DISCLOSE HIS NAME AND SERVE A STATEMENT OF HIS  
18 VALUATION OF THE PROPERTY BEFORE AND AFTER THE CONDEMNATION  
19 AND HIS OPINION OF THE HIGHEST AND BEST USE OF THE PROPERTY  
20 BEFORE THE CONDEMNATION AND OF ANY PART REMAINING AFTER THE  
21 CONDEMNATION ON THE OPPOSING PARTY AT LEAST TEN DAYS BEFORE  
22 THE COMMENCEMENT OF THE TRIAL.

23 (3) THE REPORT OF THE VIEWERS AND THE AMOUNT OF THEIR  
24 AWARD SHALL NOT BE ADMISSIBLE AS EVIDENCE.

25 § 1104. COMPETENCY OF CONDEMNEE AS WITNESS.

26 THE CONDEMNEE OR AN OFFICER OF A CORPORATE CONDEMNEE, WITHOUT  
27 FURTHER QUALIFICATION, MAY TESTIFY AS TO JUST COMPENSATION  
28 WITHOUT COMPLIANCE WITH THE PROVISIONS OF SECTION 1103(2)  
29 (RELATING TO TRIAL IN COURT ON APPEAL).

30 § 1105. EVIDENCE GENERALLY.

1 AT THE HEARING BEFORE THE VIEWERS OR AT THE TRIAL IN COURT ON  
2 APPEAL:

3 (1) A QUALIFIED VALUATION EXPERT MAY, ON DIRECT OR  
4 CROSS-EXAMINATION, STATE ANY OR ALL FACTS AND DATA WHICH HE  
5 CONSIDERED IN ARRIVING AT HIS OPINION, WHETHER OR NOT HE HAS  
6 PERSONAL KNOWLEDGE OF THE FACTS AND DATA, AND HIS STATEMENT  
7 OF THE FACTS AND DATA AND THE SOURCES OF HIS INFORMATION  
8 SHALL BE SUBJECT TO IMPEACHMENT AND REBUTTAL.

9 (2) A QUALIFIED VALUATION EXPERT MAY, ON DIRECT OR  
10 CROSS-EXAMINATION, TESTIFY IN DETAIL AS TO THE VALUATION OF  
11 THE PROPERTY ON A COMPARABLE MARKET VALUE, REPRODUCTION COST  
12 OR CAPITALIZATION BASIS, WHICH TESTIMONY MAY INCLUDE, BUT  
13 SHALL NOT BE LIMITED TO, THE FOLLOWING:

14 (I) THE PRICE AND OTHER TERMS OF ANY SALE OR  
15 CONTRACT TO SELL THE CONDEMNED PROPERTY OR COMPARABLE  
16 PROPERTY MADE WITHIN A REASONABLE TIME BEFORE OR AFTER  
17 THE DATE OF CONDEMNATION.

18 (II) THE RENT RESERVED AND OTHER TERMS OF ANY LEASE  
19 OF THE CONDEMNED PROPERTY OR COMPARABLE PROPERTY WHICH  
20 WAS IN EFFECT WITHIN A REASONABLE TIME BEFORE OR AFTER  
21 THE DATE OF CONDEMNATION.

22 (III) THE CAPITALIZATION OF THE NET RENTAL OR  
23 REASONABLE NET RENTAL VALUE OF THE CONDEMNED PROPERTY,  
24 INCLUDING REASONABLE NET RENTAL VALUES CUSTOMARILY  
25 DETERMINED BY A PERCENTAGE OR OTHER MEASURABLE PORTION OF  
26 GROSS SALES OR GROSS INCOME OF A BUSINESS WHICH MAY  
27 REASONABLY BE CONDUCTED ON THE PREMISES, AS DISTINGUISHED  
28 FROM THE CAPITALIZED VALUE OF THE INCOME OR PROFITS  
29 ATTRIBUTABLE TO ANY BUSINESS CONDUCTED ON THE PREMISES OF  
30 THE CONDEMNED PROPERTY.

1 (IV) THE VALUE OF THE LAND TOGETHER WITH THE COST OF  
2 REPLACING OR REPRODUCING THE EXISTING IMPROVEMENTS LESS  
3 DEPRECIATION OR OBSOLESCENCE.

4 (V) THE COST OF ADJUSTMENTS AND ALTERATIONS TO ANY  
5 REMAINING PROPERTY MADE NECESSARY OR REASONABLY REQUIRED  
6 BY THE CONDEMNATION.

7 (3) EITHER PARTY MAY SHOW THE DIFFERENCE BETWEEN THE  
8 CONDITION OF THE PROPERTY AND OF THE IMMEDIATE NEIGHBORHOOD  
9 AT THE TIME OF CONDEMNATION AND AT THE TIME OF VIEW, EITHER  
10 BY THE VIEWERS OR JURY.

11 (4) THE ASSESSED VALUATIONS OF PROPERTY CONDEMNED SHALL  
12 NOT BE ADMISSIBLE IN EVIDENCE FOR ANY PURPOSE.

13 (5) A QUALIFIED VALUATION EXPERT MAY TESTIFY THAT HE HAS  
14 RELIED UPON THE WRITTEN REPORT OF ANOTHER EXPERT AS TO THE  
15 COST OF ADJUSTMENTS AND ALTERATIONS TO ANY REMAINING PROPERTY  
16 MADE NECESSARY OR REASONABLY REQUIRED BY THE CONDEMNATION,  
17 BUT ONLY IF A COPY OF THE WRITTEN REPORT HAS BEEN FURNISHED  
18 TO THE OPPOSING PARTY TEN DAYS IN ADVANCE OF THE TRIAL.

19 (6) IF OTHERWISE QUALIFIED, A VALUATION EXPERT SHALL NOT  
20 BE DISQUALIFIED BY REASON OF NOT HAVING MADE SALES OF  
21 PROPERTY OR NOT HAVING EXAMINED THE CONDEMNED PROPERTY PRIOR  
22 TO THE CONDEMNATION PROVIDED HE CAN SHOW HE HAS ACQUIRED  
23 KNOWLEDGE OF ITS CONDITION AT THE TIME OF THE CONDEMNATION.

24 § 1106. USE OF CONDEMNED PROPERTY.

25 IN ARRIVING AT HIS VALUATION OF THE REMAINING PART OF THE  
26 PROPERTY IN A PARTIAL CONDEMNATION, AN EXPERT WITNESS MAY  
27 CONSIDER AND TESTIFY TO THE USE TO WHICH THE CONDEMNED PROPERTY  
28 IS INTENDED TO BE PUT BY THE CONDEMNOR.

29 SECTION 2. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:

30 § 702.1. EXPEDITED APPEALS IN EMINENT DOMAIN PROCEEDINGS.



1     WHEN A COURT IN AN EMINENT DOMAIN PROCEEDING DISMISSES  
2     PRELIMINARY OBJECTIONS TO A DECLARATION OF TAKING AND IS OF THE  
3     OPINION THAT THE MATTERS INVOLVED ARE OF IMMEDIATE PUBLIC  
4     IMPORTANCE, IT SHALL, UPON REQUEST OF A PARTY, SO STATE IN THE  
5     ORDER. IF AN APPEAL IS TAKEN FROM THAT ORDER, THE APPELLATE  
6     COURT SHALL GIVE PRIORITY TO THE DETERMINATION OF THE ISSUES  
7     RAISED BY THE APPEAL.

8     SECTION 3. SECTIONS 5526, 5527, 5530(A) AND 6121 OF TITLE 42  
9     ARE AMENDED TO READ:

10    § 5526. FIVE YEAR LIMITATION.

11     THE FOLLOWING ACTIONS AND PROCEEDINGS MUST BE COMMENCED  
12     WITHIN FIVE YEARS:

13         (1) AN ACTION FOR REVIVAL OF A JUDGMENT LIEN ON REAL  
14     PROPERTY.

15         (2) AN ACTION FOR SPECIFIC PERFORMANCE OF A CONTRACT FOR  
16     SALE OF REAL PROPERTY OR FOR DAMAGES FOR NONCOMPLIANCE  
17     THEREWITH.

18         (3) AN ACTION TO ENFORCE ANY EQUITY OF REDEMPTION OR ANY  
19     IMPLIED OR RESULTING TRUST AS TO REAL PROPERTY.

20         [(4) A PROCEEDING IN INVERSE CONDEMNATION, IF PROPERTY  
21     HAS BEEN INJURED BUT NO PART THEREOF HAS BEEN TAKEN, OR IF  
22     THE CONDEMNOR HAS MADE PAYMENT IN ACCORDANCE WITH SECTION  
23     407(A) OR (B) (RELATING TO POSSESSION AND PAYMENT OF  
24     COMPENSATION) OF THE ACT OF JUNE 22, 1964 (SP.SESS., P.L.84,  
25     NO.6), KNOWN AS THE "EMINENT DOMAIN CODE." ]

26    § 5527. SIX YEAR LIMITATION.

27     (A) EMINENT DOMAIN.--

28         (1) IF A CONDEMNOR HAS FILED A DECLARATION OF TAKING, A  
29     PETITION FOR THE APPOINTMENT OF VIEWERS FOR THE ASSESSMENT OF  
30     DAMAGES UNDER TITLE 26 (RELATING TO EMINENT DOMAIN) MUST BE

1 FILED WITHIN SIX YEARS FROM THE DATE ON WHICH THE CONDEMNOR  
2 FIRST MADE PAYMENT IN ACCORDANCE WITH 26 PA.C.S. § 307(A) OR  
3 (B) (RELATING TO POSSESSION, RIGHT OF ENTRY AND PAYMENT OF  
4 COMPENSATION). IF PAYMENT IS NOT REQUIRED TO BE MADE UNDER 26  
5 PA.C.S. § 307(A) TO OBTAIN POSSESSION, A PETITION FOR THE  
6 APPOINTMENT OF VIEWERS MUST BE FILED WITHIN SIX YEARS OF THE  
7 FILING OF THE DECLARATION OF TAKING.

8 (2) IF THE CONDEMNOR HAS NOT FILED A DECLARATION OF  
9 TAKING, A PETITION FOR THE APPOINTMENT OF VIEWERS FOR THE  
10 ASSESSMENT OF DAMAGES UNDER TITLE 26 MUST BE FILED WITHIN SIX  
11 YEARS FROM THE DATE ON WHICH THE ASSERTED TAKING, INJURY OR  
12 DESTRUCTION OF THE PROPERTY OCCURRED OR COULD REASONABLY HAVE  
13 BEEN DISCOVERED BY THE CONDEMNEE.

14 (B) OTHER CIVIL ACTION OR PROCEEDING.--ANY CIVIL ACTION OR  
15 PROCEEDING WHICH IS NEITHER SUBJECT TO ANOTHER LIMITATION  
16 SPECIFIED IN THIS SUBCHAPTER NOR EXCLUDED FROM THE APPLICATION  
17 OF A PERIOD OF LIMITATION BY SECTION 5531 (RELATING TO NO  
18 LIMITATION) MUST BE COMMENCED WITHIN SIX YEARS.

19 § 5530. TWENTY-ONE YEAR LIMITATION.

20 (A) GENERAL RULE.--THE FOLLOWING ACTIONS AND PROCEEDINGS  
21 MUST BE COMMENCED WITHIN 21 YEARS:

22 (1) AN ACTION FOR THE POSSESSION OF REAL PROPERTY.

23 (2) AN ACTION FOR THE PAYMENT OF ANY GROUND RENT,  
24 ANNUITY OR OTHER CHARGE UPON REAL PROPERTY, OR ANY PART OR  
25 PORTION THEREOF. IF THIS PARAGRAPH SHALL OPERATE TO BAR ANY  
26 PAYMENT OF SUCH A RENT, ANNUITY OR CHARGE, THE RENT, ANNUITY  
27 OR CHARGE TO WHICH THE PAYMENT RELATES SHALL BE EXTINGUISHED  
28 AND NO FURTHER ACTION MAY BE COMMENCED WITH RESPECT TO  
29 SUBSEQUENT PAYMENTS.

30 [(3) A PROCEEDING IN INVERSE CONDEMNATION, IF PROPERTY

1 HAS BEEN TAKEN AND THE CONDEMNOR HAS NOT MADE PAYMENT IN  
2 ACCORDANCE WITH SECTION 407(A) OR (B) (RELATING TO POSSESSION  
3 AND PAYMENT OF COMPENSATION) OF THE ACT OF JUNE 22, 1964  
4 (SP.SESS., P.L.84, NO.6), KNOWN AS THE "EMINENT DOMAIN  
5 CODE." ]

6 \* \* \*

7 § 6121. EMINENT DOMAIN MATTERS.

8 EMINENT DOMAIN MATTERS SHALL BE GOVERNED BY THE PROVISIONS OF  
9 [ARTICLE VII (RELATING TO EVIDENCE) OF THE ACT OF JUNE 22, 1964  
10 (SP.SESS., P.L.84, NO.6), KNOWN AS THE "EMINENT DOMAIN CODE," ]  
11 26 PA.C.S. CH. 11 (RELATING TO EVIDENCE) IN ADDITION TO THE  
12 PROVISIONS OF THIS CHAPTER.

13 SECTION 4. SECTION 1505 OF TITLE 51 IS AMENDED TO READ:

14 § 1505. DONATION OF LAND BY POLITICAL SUBDIVISIONS.

15 IT SHALL BE LAWFUL FOR ANY COUNTY, CITY, BOROUGH, TOWN OR  
16 TOWNSHIP TO ACQUIRE BY PURCHASE OR BY GIFT, OR BY THE RIGHT OF  
17 EMINENT DOMAIN, ANY LAND FOR THE USE OF THE PENNSYLVANIA  
18 NATIONAL GUARD, AND TO CONVEY SUCH LANDS SO ACQUIRED TO THE  
19 COMMONWEALTH OF PENNSYLVANIA. THE PROCEEDINGS FOR THE  
20 CONDEMNATION OF LANDS UNDER THE PROVISIONS OF THIS CHAPTER AND  
21 FOR THE ASSESSMENT OF DAMAGES FOR THE PROPERTY TAKEN, INJURED OR  
22 DESTROYED SHALL BE TAKEN IN THE SAME MANNER AS IS NOW PROVIDED  
23 BY [THE ACT OF JUNE 22, 1964 (SP.SESS., P.L.84, NO.6), KNOWN AS  
24 THE "EMINENT DOMAIN CODE." ] TITLE 26 (RELATING TO EMINENT  
25 DOMAIN).

26 SECTION 5. (A) THE FOLLOWING ACTS AND PARTS OF ACTS ARE  
27 REPEALED:

28 SECTION 41 OF THE ACT OF APRIL 29, 1874 (P.L.73, NO.32),  
29 ENTITLED "AN ACT TO PROVIDE FOR THE INCORPORATION AND REGULATION  
30 OF CERTAIN CORPORATIONS."

1       SECTION 2003(E)(2)(I)(B) AND (7) (EXCEPT AS MUCH AS READS:  
2       "REVENUE FROM ANY SALE OF LAND ACQUIRED WITH MOTOR LICENSE FUNDS  
3       SHALL BE DEPOSITED IN THE MOTOR LICENSE FUND.") OF THE ACT OF  
4       APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE  
5       CODE OF 1929.

6       ACT OF APRIL 17, 1929 (P.L.531, NO.234), ENTITLED "AN ACT  
7       AUTHORIZING THE COURTS OF COMMON PLEAS TO DIRECT THE FILING BY  
8       CORPORATIONS OF BONDS TO THE COMMONWEALTH, TO SECURE PAYMENT OF  
9       DAMAGES FOR THE TAKING OF LANDS, WATERS, MATERIALS, OR OTHER  
10      PROPERTY OR RIGHTS, OR FOR INJURY THERETO, IN CASES WHERE THERE  
11      IS A DISPUTED, DOUBTFUL, OR DEFECTIVE TITLE, OR WHERE ANY PARTY  
12      INTERESTED IS ABSENT, UNKNOWN, NOT OF FULL AGE, OF UNSOUND MIND,  
13      OR IS AN UNINCORPORATED ASSOCIATION, OR, FROM ANY CAUSE, CANNOT  
14      BE BARGAINED WITH OR BE SERVED WITH NOTICE OR TENDERED A BOND  
15      WITHIN THE COUNTY, AND TO APPOINT GUARDIANS AD LITEM OR TRUSTEES  
16      FOR SUCH PERSONS."

17      ACT OF JUNE 22, 1964 (SP.SESS., P.L.84, NO.6), KNOWN AS THE  
18      EMINENT DOMAIN CODE.

19      ACT OF DECEMBER 29, 1971 (P.L.646, NO.170), ENTITLED "AN ACT  
20      TO ALLOW FOR THE PROVISION OF RELOCATION ASSISTANCE AND THE  
21      PAYMENT OF RELOCATION BENEFITS UNDER FEDERALLY ASSISTED PROGRAMS  
22      TO PERSONS WHO WOULD NOT QUALIFY FOR SUCH PAYMENTS UNDER THE  
23      EMINENT DOMAIN CODE OF THE COMMONWEALTH OF PENNSYLVANIA."

24      ACT OF DECEMBER 6, 1972 (P.L.1410, NO.304), KNOWN AS THE  
25      HOUSING REPLACEMENT AUTHORIZATION ACT.

26      AS MUCH OF SECTION 302(A) OF THE ACT OF DECEMBER 21, 1988  
27      (P.L. , NO.177), KNOWN AS THE GENERAL ASSOCIATION ACT OF 1988,  
28      AS RELATES TO THE PARTIAL REPEAL OF SECTION 901 OF THE ACT OF  
29      JUNE 22, 1964 (SP.SESS., P.L.84, NO.6), KNOWN AS THE EMINENT  
30      DOMAIN CODE, AS READS AS FOLLOWS: "A COURT MAY ISSUE A WRIT OF

1 POSSESSION TO THE CONDEMNOR PRIOR TO THE DISPOSITION OF  
2 PRELIMINARY OBJECTIONS WHICH CHALLENGE THE VALIDITY OF A  
3 CONDEMNATION OF RIGHTS-OF-WAY OR EASEMENTS FOR OCCUPATION BY  
4 WATER, ELECTRIC, GAS, OIL AND/OR PETROLEUM PRODUCTS, TELEPHONE  
5 OR TELEGRAPH LINES USED DIRECTLY OR INDIRECTLY IN FURNISHING  
6 SERVICE TO THE PUBLIC, AND IF IT SHALL BE DETERMINED FINALLY  
7 THAT THE CONDEMNATION IS INVALID IN WHOLE OR IN PART, THE  
8 AFFECTED OWNERS MAY RECOVER DAMAGES FOR ANY INJURIES SUSTAINED  
9 THEREBY AND SHALL BE ENTITLED TO SUCH EQUITABLE RELIEF AS MAY BE  
10 APPROPRIATE IN THE CIRCUMSTANCES."

11 15 PA.C.S. § 1511(G)(2) (RELATING TO ADDITIONAL POWERS OF  
12 CERTAIN PUBLIC UTILITY CORPORATIONS).

13 (B) SUBSECTION H OF SECTION 322 OF THE ACT OF MAY 5, 1933  
14 (P.L.364, NO.106), KNOWN AS THE BUSINESS CORPORATION LAW, IS  
15 REPEALED INsofar AS IT IS INCONSISTENT WITH THIS ACT.

16 (C) NOTHING IN THIS ACT SHALL REPEAL, MODIFY OR SUPPLANT THE  
17 FOLLOWING ACT EXCEPT AS TO THE MEASURE OF DAMAGES PRESCRIBED BY  
18 26 PA.C.S. CH. 7 OF THIS ACT:

19 ARTICLES XXVII, XXVIII AND XXIX OF THE ACT OF JULY 28, 1953  
20 (P.L.723, NO.230), KNOWN AS THE SECOND CLASS COUNTY CODE, AS  
21 THEY ARE APPLICABLE TO PROCEDURES IN THE COURT OF COMMON PLEAS  
22 WITH RESPECT TO BRIDGES, VIADUCTS, CULVERTS AND ROADS.

23 (D) ALL OTHER ACTS AND PARTS OF ACTS ARE REPEALED INsofar AS  
24 THEY ARE INCONSISTENT WITH THIS ACT.

25 SECTION 6. THIS ACT SHALL APPLY TO ALL CONDEMNATIONS  
26 EFFECTED ON OR AFTER THE EFFECTIVE DATE OF THIS ACT. HOWEVER,  
27 THE PROVISIONS OF 26 PA.C.S. § 713 RELATING TO THE RATE OF  
28 INTEREST FOR COMPENSATION FOR DELAY SHALL APPLY TO ALL PERIODS  
29 OF TIME THEREAFTER WITH RESPECT TO CONDEMNATIONS EFFECTED PRIOR  
30 TO THE EFFECTIVE DATE OF THIS ACT. THE AMENDMENTS TO 42 PA.C.S.

1 §§ 5526, 5527 AND 5530 SHALL APPLY ONLY TO CAUSES OF ACTION  
2 WHICH ACCRUE AFTER THE EFFECTIVE DATE OF THIS ACT.

3 SECTION 7. THE REPEAL BY THIS ACT OF SECTION 2003(E)(7) OF  
4 THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE  
5 ADMINISTRATIVE CODE OF 1929, SHALL NOT AFFECT THE AUTHORITY OF  
6 THE DEPARTMENT OF TRANSPORTATION TO SELL AT PUBLIC SALE PURSUANT  
7 TO 26 PA.C.S. § 310 ANY LAND ACQUIRED BY THE DEPARTMENT IF THE  
8 SECRETARY OF TRANSPORTATION DETERMINES THAT THE LAND IS NOT  
9 NEEDED FOR PRESENT OR FUTURE TRANSPORTATION PURPOSES.

10 SECTION 8. IF THIS ACT IS ENACTED AFTER APRIL 1, 1989, THE  
11 DEFINITIONS OF "ACQUIRING AGENCY," COMPARABLE REPLACEMENT  
12 DWELLING," "DISPLACED PERSON" AND "SMALL BUSINESS" IN SECTION  
13 103 AND CHAPTER 9 SHALL BE APPLIED RETROACTIVELY TO APRIL 1,  
14 1989.

15 SECTION 9. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.