
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 381 Session of
1993

INTRODUCED BY CARONE, FAIRCHILD, STEIGHNER, NICKOL, HALUSKA,
LaGROTTA, B. SMITH, FARGO, BUTKOVITZ AND JOSEPHS,
FEBRUARY 10, 1993

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
FEBRUARY 10, 1993

AN ACT

1 Amending the act of June 30, 1981 (P.L.128, No.43), entitled "An
2 act authorizing the creation of agricultural areas," further
3 providing for limitations on certain governmental actions.

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

6 Section 1. Section 13 of the act of June 30, 1981 (P.L.128,
7 No.43), known as the Agricultural Area Security Law, amended
8 December 14, 1988 (P.L.1202, No.149), is amended to read:

9 Section 13. Limitation on certain governmental actions.

10 (a) Approval required for condemnation and for certain other
11 actions by an agency of the Commonwealth.--No agency of the
12 Commonwealth having or exercising powers of eminent domain shall
13 condemn for any purpose any land within any agricultural
14 security area which land is being used for productive
15 agricultural purposes (not including the growing of timber)
16 unless prior approval has been obtained in accordance with the
17 criteria and procedures established in this section from the

1 Agricultural Lands Condemnation Approval Board as established in
2 section 306 of the act of April 9, 1929 (P.L.177, No.175), known
3 as "The Administrative Code of 1929." The condemnation approval
4 specified by this subsection shall not be required for an
5 underground public utility facility or for any facility of an
6 electric cooperative corporation or for any public utility
7 facility the necessity for and the propriety and environmental
8 effects of which has been reviewed and ratified or approved by
9 the Pennsylvania Public Utility Commission or the Federal Energy
10 Regulatory Commission[.], unless such facility is an electric
11 transmission line meeting the criteria set forth in subsection
12 (b)(2), in which case approval by the Agricultural Lands
13 Condemnation Approval Board shall be required. In addition, all
14 State-funded development projects which might affect land in
15 established agricultural security areas shall be reviewed by the
16 appropriate local agricultural advisory committee and by the
17 Agricultural Lands Condemnation Approval Board. Each reviewing
18 body may suggest any modification to the State-funded
19 development projects which ensures the integrity of the
20 agricultural security areas against nonfarm encroachment.

21 (b) Approval required for condemnation by a political
22 subdivision, authority, public utility or other body.--

23 (1) No political subdivision, authority, public utility
24 or other body having or exercising powers of eminent domain
25 shall condemn any land within any agricultural security area
26 for any purpose, unless prior approval has been obtained from
27 Agricultural Lands Condemnation Approval Board and from each
28 of the following bodies: the governing bodies of the local
29 government units encompassing the agricultural security area,
30 the county governing body, and the Agricultural Security Area

1 Advisory Committee.

2 (2) Condemnation approval by the Agricultural Lands
3 Condemnation Approval Board shall be required for any public
4 utility which seeks to condemn lands within an agricultural
5 security area for the purpose of erecting, establishing or
6 running an above-ground electric transmission line designed
7 to carry an aggregate voltage greater than 100,000 volts on
8 or over lands in an agricultural security area.

9 (3) Review by the Agricultural Lands Condemnation
10 Approval Board and the other indicated bodies shall be in
11 accordance with the criteria and procedures established in
12 this section.

13 (4) The condemnation approvals specified by this
14 subsection shall not be required for an underground public
15 utility facility or for any facility of an electric
16 cooperative corporation or for any public utility facility
17 the necessity for and the propriety and environmental effects
18 of which has been reviewed and ratified or approved by the
19 Pennsylvania Public Utility Commission or the Federal Energy
20 Regulatory Commission, unless that facility is an electric
21 transmission line meeting the criteria set forth in
22 subsection (b)(2), in which case condemnation approval by the
23 Agricultural Lands Condemnation Approval Board shall be
24 required. The foregoing exemptions are applicable regardless
25 of whether the right to establish and maintain such
26 underground or other public utility facility is obtained by
27 condemnation, or by agreement with the owner.

28 (c) Notice.--

29 (1) Any condemnor wishing to condemn property the
30 approval for which is required under [this section]

1 subsection (a) or (b)(1) shall at least 30 days prior to
2 taking such action notify each of the [foregoing] bodies
3 whose approval of the proposed condemnation is required that
4 such action is contemplated, and no such condemnation shall
5 be effective until 60 days following the receipt of such
6 notice.

7 (2) Any condemnor wishing to condemn property for a
8 project meeting the criteria of subsection (b)(2) shall at
9 least 30 days prior to taking action notify the Agricultural
10 Lands Condemnation Approval Board that the action is
11 contemplated, and the condemnation shall not be effective
12 until 120 days following both receipt of the notice and a
13 complete and accurate list of the names and mailing addresses
14 of the proposed condemnor, the owners of land proposed to be
15 condemned and the local government units encompassing all or
16 part of the area proposed to be condemned.

17 (d) Review by Agricultural Lands Condemnation Approval Board
18 and other bodies.--

19 (1) Upon receipt of such notice the Agricultural Lands
20 Condemnation Approval Board and the bodies provided for in
21 subsection (b) jointly shall review the proposed condemnation
22 in accordance with the applicable criteria established in
23 paragraph (2).

24 (2) (i) In the case of condemnation for highway
25 purposes (but not including activities relating to
26 existing highways such as, but not limited to, widening
27 roadways, the elimination of curves or reconstruction,
28 for which no approval is required), in the case of
29 condemnation for purposes of subsection (b)(2) and in the
30 case of condemnation for the disposal of solid or liquid

1 waste material, the Agricultural Lands Condemnation
2 Approval Board or other appropriate reviewing body shall
3 approve the proposed condemnation only if it determines
4 that there is no reasonable and prudent alternative to
5 the utilization of the land within the agricultural
6 security area for the project.

7 (ii) In all other cases not otherwise specifically
8 provided for, the Agricultural Lands Condemnation
9 Approval Board or other appropriate reviewing body shall
10 approve the proposed condemnation only if it determines
11 that:

12 (A) the proposed condemnation would not have an
13 unreasonably adverse affect upon the preservation and
14 enhancement of agriculture or municipal resources
15 within the area or upon the environmental and
16 comprehensive plans of the county, municipality and
17 the Commonwealth, or upon the goals, resource plans,
18 policies or objectives thereof; or

19 (B) there is no reasonable and prudent
20 alternative to the utilization of the lands within
21 the agricultural security area for the project.

22 (e) Public hearings.--

23 (1) Within such 60-day period the Agricultural Lands
24 Condemnation Approval Board and other indicated bodies, as
25 appropriate, shall hold a public hearing concerning the
26 proposed condemnation at a place within or otherwise readily
27 accessible to the area. Timely notice of such hearing shall
28 be placed in a newspaper having a general circulation within
29 the area and a written notice shall be posted at five
30 conspicuous places within or adjacent to the area. Individual

1 written notice shall also be given to all local government
2 units encompassing all or part of the area, to the proposed
3 condemnor, and to the owners of the land proposed to be
4 condemned.

5 (2) Within 120 days following receipt of both notice of
6 a proposed condemnation for a project meeting the criteria
7 set forth in subsection (b)(2) and a complete and accurate
8 list of the names and mailing addresses of the proposed
9 condemnor, the owners of land proposed to be condemned and
10 the local government units encompassing all or part of the
11 area, the Agricultural Lands Condemnation Approval Board
12 shall hold a single public hearing concerning the proposed
13 condemnation. To the extent practicable, the hearing shall be
14 held at a place readily accessible to the persons who would
15 be affected by the proposed condemnation. Timely notice of
16 the hearing shall be placed in at least one newspaper of
17 general circulation within the area containing the property
18 to be condemned. Written notice of the hearing shall be
19 posted at five conspicuous areas within or adjacent to the
20 area. Individual written notice shall be given to all local
21 government units encompassing all or part of the area, to the
22 proposed condemnor and to the owners of the land proposed to
23 be condemned.

24 (f) Findings and decisions.--

25 (1) The Agricultural Lands Condemnation Approval Board
26 and other indicated bodies, as appropriate, shall render
27 findings and decisions on or before the expiration of such
28 60-day period and likewise within such period shall report
29 the same to the proposed condemnor, the local government
30 units affected and any party who files an appearance at such

1 hearing. If the Agricultural Lands Condemnation Approval
2 Board or any other indicated body fails to act within the 60-
3 day period, the condemnation shall be deemed approved.

4 (2) The Agricultural Land Condemnation Approval Board
5 shall render its findings and decision regarding a project
6 which meets the criteria of subsection (b)(2) on or before
7 the expiration of the 120-day period described in subsection
8 (e)(2). Within this same period, the Agricultural Lands
9 Condemnation Approval Board shall render its findings and
10 decision to the proposed condemnor, the local government
11 units affected and any owner of land proposed to be condemned
12 who filed an appearance at the public hearing. If the
13 Agricultural Lands Condemnation Approval Board fails to act
14 within this 120-day period, the condemnation shall be deemed
15 approved.

16 (g) Injunctions.--The Agricultural Lands Condemnation
17 Approval Board may request the Attorney General or the bodies
18 may request their solicitor to bring an action to enjoin any
19 such condemnor from violating any of the provisions of this
20 section.

21 (h) Emergencies excepted.--This section shall not apply to
22 any emergency project which is immediately necessary for the
23 protection of life or property.

24 Section 2. This act shall take effect in 60 days.