

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2054 Session of  
2005

INTRODUCED BY GRELL, GABIG, CREIGHTON, METCALFE, BALDWIN,  
BENNINGHOFF, BOYD, BUXTON, CALTAGIRONE, CLYMER, CRAHALLA,  
DENLINGER, FEESE, FICHTER, GEIST, GODSHALL, GOOD, GOODMAN,  
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T. STEVENSON, SURRA, TANGRETTI, E. Z. TAYLOR, TIGUE, TRUE,  
TURZAI, DALLY, MAJOR, THOMAS, GINGRICH, SEMMEL, MUSTIO AND  
PAYNE, OCTOBER 17, 2005

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 17, 2005

AN ACT

1 Amending Title 26 (Eminent Domain) of the Pennsylvania  
2 Consolidated Statutes, providing for limitations on the use  
3 of eminent domain; and making a related repeal.

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

6 Section 1. Title 26 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 2

9 LIMITATIONS ON USE OF EMINENT DOMAIN

10 Sec.

11 201. Short title of chapter.

12 202. Definitions.

13 203. Applicability.

14 204. Eminent domain for private business prohibited.

1 205. Eminent domain in redevelopment areas.

2 § 201. Short title of chapter.

3 This chapter shall be known and may be cited as the Property  
4 Rights Protection Act.

5 § 202. Definitions.

6 The following words and phrases when used in this chapter  
7 shall have the meanings given to them in this section unless the  
8 context clearly indicates otherwise:

9 "Commonwealth agency." As defined in 2 Pa.C.S. § 101  
10 (relating to definitions).

11 "Condemnee." A person that owns property subject to the  
12 exercise of the power of eminent domain by a condemnor.

13 "Condemnor." Any of the following which is authorized by law  
14 to exercise the power of eminent domain:

15 (1) The Commonwealth, a Commonwealth agency or an  
16 instrumentality or authority of the Commonwealth.

17 (2) A political subdivision, an agency of a political  
18 subdivision or an instrumentality or authority of a political  
19 subdivision.

20 (3) A public utility as defined in 66 Pa.C.S. § 102  
21 (relating to definitions).

22 (4) A private entity.

23 "Eminent domain." The power of the Commonwealth to take  
24 private property for public use in return for reasonable  
25 compensation.

26 "Redevelopment area." As defined in section 3(n) of the act  
27 of May 24, 1945 (P.L.991, No.385), known as the Urban  
28 Redevelopment Law.

29 § 203. Applicability.

30 (a) Authority.--Except as set forth in subsection (b), the

1 limitations and protections set forth in this chapter apply to  
2 the exercise of eminent domain by a condemnor.

3 (b) Exception.--This chapter does not affect any of the  
4 following:

5 (1) The jurisdiction or power of the Pennsylvania Public  
6 Utility Commission.

7 (2) Any statute providing for the assessment of benefits  
8 for public improvement on the properties benefited.

9 § 204. Eminent domain for private business prohibited.

10 (a) Prohibition.--Except as set forth in subsection (b), the  
11 exercise by any condemnor of the power of eminent domain to take  
12 private property in order to use it for private commercial  
13 enterprise is prohibited.

14 (b) Exception.--Subsection (a) does not apply if any of the  
15 following apply:

16 (1) The condemnee consents to the use of the property  
17 for private commercial enterprise.

18 (2) The property taken is transferred or leased to any  
19 of the following:

20 (i) A common carrier as defined in 66 Pa.C.S. § 102  
21 (relating to definitions).

22 (ii) A private entity that occupies an incidental  
23 area within a public project, such as a retail  
24 establishment on the ground floor of a public building.

25 (3) There is, on or associated with the property taken,  
26 a threat to public health or safety. This paragraph includes  
27 the following:

28 (i) Removal of a public nuisance.

29 (ii) Removal of a structure which is:

30 (A) beyond repair; or

1 (B) unfit for human habitation or use.

2 (4) The property taken is abandoned.

3 (5) The property taken meets the requirements of section  
4 205 (relating to eminent domain in redevelopment areas).

5 § 205. Eminent domain in redevelopment areas.

6 (a) Scope.--This section applies notwithstanding the act of  
7 May 24, 1945 (P.L.991, No.385), known as the Urban Redevelopment  
8 Law.

9 (b) Single property.--For purposes of acquiring a single  
10 unit of property by eminent domain, a condemnor is authorized or  
11 permitted to declare an area, either within or outside of a  
12 redevelopment area, to be blighted only if the property is any  
13 of the following:

14 (1) A premises which, because of physical condition or  
15 use, is regarded as a public nuisance at common law or has  
16 been declared a public nuisance in accordance with the  
17 municipality housing, building, plumbing, fire or related  
18 codes.

19 (2) A premises which, because of physical condition, use  
20 or occupancy, is considered an attractive nuisance to  
21 children. This paragraph includes an abandoned:

22 (i) well;

23 (ii) shaft;

24 (iii) basement;

25 (iv) excavation; or

26 (v) unsafe fence or structure.

27 (3) A dwelling which, because it is dilapidated,  
28 unsanitary, unsafe, vermin-infested or lacking in the  
29 facilities and equipment required by statute or an applicable  
30 municipal code, has been designated by the agency responsible

1 for enforcement of the statute or code as unfit for human  
2 habitation.

3 (4) A structure which is a fire hazard or is otherwise  
4 dangerous to the safety of persons or property.

5 (5) A structure from which the utilities, plumbing,  
6 heating, sewerage or other facilities have been disconnected,  
7 destroyed, removed or rendered ineffective so that the  
8 property is unfit for its intended use.

9 (6) Any vacant or unimproved lot or parcel of ground in  
10 a predominantly built-up neighborhood which, by reason of  
11 neglect or lack of maintenance, has become a place for  
12 accumulation of trash and debris or a haven for rodents or  
13 other vermin.

14 (7) An unoccupied property which has been tax delinquent  
15 for a period of two years.

16 (8) A property which is vacant but not tax delinquent  
17 and which has not been rehabilitated within one year of the  
18 receipt of notice to rehabilitate from the appropriate  
19 enforcement agency.

20 (9) An abandoned property. A property shall be  
21 considered abandoned under this paragraph if it:

22 (i) is a vacant or unimproved lot or parcel of  
23 ground on which a municipal lien for the cost of  
24 demolition of a structure located on the property remains  
25 unpaid for a period of six months;

26 (ii) is a vacant property or vacant or unimproved  
27 lot or parcel of ground on which the total of municipal  
28 liens on the property for tax or other type of claim of  
29 the municipality is in excess of 150% of the fair market  
30 value of the property as established by the Board of

Revisions of Taxes or other body with legal authority to determine the taxable value of the property; or

(iii) has been declared abandoned by the owner, including an estate that is in possession of the property.

(c) Multiple properties.--For purposes of acquiring multiple units of property by eminent domain, a condemnor is authorized or permitted to declare an area, either within or outside of a redevelopment area, to be blighted only if a majority of the units of property:

(1) meet any of the requirements under subsection (b)(1) through (9); and

(2) represent a majority of the geographical area.

(d) Redesignation.--If a condemnor seeks to add or enlarge a blighted area, it must find that the area meets the requirements of subsection (b) or (c) at the time of the addition or enlargement.

(e) Expiration.--The declaration of a blighted area shall expire after ten years.

Section 2. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of 26 Pa.C.S. § 205.

(2) As much of section 2 of the act of May 24, 1945 (P.L.991, No.385), known as the Urban Redevelopment Law, as relates to condemnation of blighted areas, is repealed.

(3) All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 3. This act shall apply to the exercise of the power of eminent domain on or after the effective date of this

1 section.

2 Section 4. This act shall take effect in 60 days.