

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,
HARRIS, HASAY, HERMAN, HERSHEY, HESS, KAUFFMAN, M. KELLER,
KILLION, MACKERETH, MARKOSEK, McILHATTAN, R. MILLER, MUNDY,
NICKOL, O'NEILL, PHILLIPS, PICKETT, PISTELLA, PYLE, REED,
SCHRODER, B. SMITH, S. H. SMITH, SONNEY, STERN, R. STEVENSON,
T. STEVENSON, SURRA, TANGRETTI, E. Z. TAYLOR, TIGUE, TRUE,
TURZAI, DALLY, MAJOR, THOMAS, GINGRICH, SEMMEL, MUSTIO,
PAYNE, ROSS, BUNT, CAPPELLI, QUIGLEY, BASTIAN, STEIL, ELLIS,
RAPP, CAUSER, NAILOR, HENNESSEY, YOUNGBLOOD, FREEMAN,
ROBERTS, PETRARCA, BIRMELIN, MARSICO, HUTCHINSON, BARRAR AND
SIPTROTH, OCTOBER 17, 2005

SENATOR LEMMOND, STATE GOVERNMENT, IN SENATE, RE-REPORTED AS
AMENDED, MARCH 29, 2006

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 AMENDING TITLES 26 (EMINENT DOMAIN), 42 (JUDICIARY AND JUDICIAL <—
5 PROCEDURE) AND 51 (MILITARY AFFAIRS) OF THE PENNSYLVANIA
6 CONSOLIDATED STATUTES, ADDING PROVISIONS RELATING TO EMINENT
7 DOMAIN; AND MAKING RELATED REPEALS.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 ~~Section 1. Title 26 of the Pennsylvania Consolidated~~ <—
11 ~~Statutes is amended by adding a chapter to read:~~

12 ~~CHAPTER 2~~

13 ~~LIMITATIONS ON USE OF EMINENT DOMAIN~~

14 ~~See.~~

1 ~~201. Short title of chapter.~~

2 ~~202. Definitions.~~

3 ~~203. Applicability.~~

4 ~~204. Eminent domain for private business prohibited.~~

5 ~~205. Eminent domain in redevelopment areas.~~

6 ~~§ 201. Short title of chapter.~~

7 ~~This chapter shall be known and may be cited as the Property~~
8 ~~Rights Protection Act.~~

9 ~~§ 202. Definitions.~~

10 ~~The following words and phrases when used in this chapter~~
11 ~~shall have the meanings given to them in this section unless the~~
12 ~~context clearly indicates otherwise:~~

13 ~~"Commonwealth agency." As defined in 2 Pa.C.S. § 101~~
14 ~~(relating to definitions).~~

15 ~~"Condemnee." A person that owns property subject to the~~
16 ~~exercise of the power of eminent domain by a condemnor.~~

17 ~~"Condemnor." Any of the following which is authorized by law~~
18 ~~to exercise the power of eminent domain:~~

19 ~~(1) The Commonwealth, a Commonwealth agency or an~~
20 ~~instrumentality or authority of the Commonwealth.~~

21 ~~(2) A political subdivision, an agency of a political~~
22 ~~subdivision or an instrumentality or authority of a political~~
23 ~~subdivision.~~

24 ~~(3) A public utility as defined in 66 Pa.C.S. § 102~~
25 ~~(relating to definitions).~~

26 ~~(4) A private entity.~~

27 ~~"Eminent domain." The power of the Commonwealth to take~~
28 ~~private property for public use in return for reasonable~~
29 ~~compensation.~~

30 ~~"Redevelopment area." As defined in section 3(n) of the act~~

1 ~~of May 24, 1945 (P.L.991, No.385), known as the Urban~~
2 ~~Redevelopment Law.~~

3 ~~§ 203. Applicability.~~

4 ~~(a) Authority. Except as set forth in subsection (b), the~~
5 ~~limitations and protections set forth in this chapter apply to~~
6 ~~the exercise of eminent domain by a condemnor.~~

7 ~~(b) Exception. This chapter does not affect any of the~~
8 ~~following:~~

9 ~~(1) The jurisdiction or power of the Pennsylvania Public~~
10 ~~Utility Commission.~~

11 ~~(2) Any statute providing for the assessment of benefits~~
12 ~~for public improvement on the properties benefited.~~

13 ~~§ 204. Eminent domain for private business prohibited.~~

14 ~~(a) Prohibition. Except as set forth in subsection (b), the~~
15 ~~exercise by any condemnor of the power of eminent domain to take~~
16 ~~private property in order to use it for private commercial~~
17 ~~enterprise is prohibited. The term "private commercial~~
18 ~~enterprise" shall not include a hospital or medical center that~~
19 ~~is operated not for profit.~~

20 ~~(b) Exception. Subsection (a) does not apply if any of the~~
21 ~~following apply:~~

22 ~~(1) The condemnee consents to the use of the property~~
23 ~~for private commercial enterprise.~~

24 ~~(2) The property taken is transferred or leased to any~~
25 ~~of the following:~~

26 ~~(i) A common carrier as defined in 66 Pa.C.S. § 102~~
27 ~~(relating to definitions).~~

28 ~~(ii) A private entity that occupies an incidental~~
29 ~~area within a public project, such as a retail~~
30 ~~establishment on the ground floor of a public building.~~

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

~~(i) Removal of a public nuisance.~~

~~(ii) Removal of a structure which is:~~

~~(A) beyond repair; or~~

~~(B) unfit for human habitation or use.~~

~~(4) The property taken is abandoned.~~

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

~~§ 205. Eminent domain in redevelopment areas.~~

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

~~(b) Single property. For purposes of acquiring a single
unit 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 the property is any
of the following:~~

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

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

~~(i) well;~~

~~(ii) shaft;~~

~~(iii) basement;~~

1 ~~(iv) excavation; or~~

2 ~~(v) unsafe fence or structure.~~

3 ~~(3) A dwelling which, because it is dilapidated,~~
4 ~~unsanitary, unsafe, vermin infested or lacking in the~~
5 ~~facilities and equipment required by statute or an applicable~~
6 ~~municipal code, has been designated by the agency responsible~~
7 ~~for enforcement of the statute or code as unfit for human~~
8 ~~habitation.~~

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

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

15 ~~(6) Any vacant or unimproved lot or parcel of ground in~~
16 ~~a predominantly built up neighborhood which, by reason of~~
17 ~~neglect or lack of maintenance, has become a place for~~
18 ~~accumulation of trash and debris or a haven for rodents or~~
19 ~~other vermin.~~

20 ~~(7) An unoccupied property which has been tax delinquent~~
21 ~~for a period of two years.~~

22 ~~(8) A property which is vacant but not tax delinquent~~
23 ~~and which has not been rehabilitated within one year of the~~
24 ~~receipt of notice to rehabilitate from the appropriate~~
25 ~~enforcement agency.~~

26 ~~(9) An abandoned property. A property shall be~~
27 ~~considered abandoned under this paragraph if it:~~

28 ~~(i) is a vacant or unimproved lot or parcel of~~
29 ~~ground on which a municipal lien for the cost of~~
30 ~~demolition of a structure located on the property remains~~

1 ~~unpaid for a period of six months;~~

2 ~~(ii) is a vacant property or vacant or unimproved~~
3 ~~lot or parcel of ground on which the total of municipal~~
4 ~~liens on the property for tax or other type of claim of~~
5 ~~the municipality is in excess of 150% of the fair market~~
6 ~~value of the property as established by the Board of~~
7 ~~Revisions of Taxes or other body with legal authority to~~
8 ~~determine the taxable value of the property; or~~

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

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

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

19 ~~(2) represent a majority of the geographical area.~~

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

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

26 ~~Section 2. Repeals are as follows:~~

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

30 ~~(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 section.~~

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

~~SECTION 1. TITLE 26 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED BY ADDING A CHAPTER TO READ:~~

~~CHAPTER 2~~

~~LIMITATIONS ON USE OF EMINENT DOMAIN~~

~~SEC.~~

~~201. SHORT TITLE OF CHAPTER.~~

~~202. DEFINITIONS.~~

~~203. APPLICABILITY.~~

~~204. EMINENT DOMAIN FOR PRIVATE BUSINESS PROHIBITED.~~

~~205. BLIGHT.~~

~~206. EXTRATERRITORIAL TAKINGS.~~

~~207. EMINENT DOMAIN OF AGRICULTURAL PROPERTY.~~

~~§ 201. SHORT TITLE OF CHAPTER.~~

~~THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE PROPERTY RIGHTS PROTECTION ACT.~~

~~§ 202. DEFINITIONS.~~

~~THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:~~

~~"AGRICULTURAL COMMODITY." AS DEFINED UNDER SECTION 2 OF THE ACT OF JUNE 10, 1982 (P.L.454, NO.133), REFERRED TO AS THE RIGHT TO FARM LAW.~~

~~"AGRICULTURAL OPERATION."—A PERSON ENGAGED COMMERCIALLY IN
THE PRODUCTION OF AN AGRICULTURAL COMMODITY THAT HAS AN
ANTICIPATED YEARLY GROSS INCOME OF AT LEAST \$2,000.~~

~~"AGRICULTURAL PROPERTY."—PROPERTY THAT IS OWNED OR OPERATED
BY AN AGRICULTURAL OPERATION IN THE COURSE OF THE OPERATION'S
PRODUCTION, HARVESTING OR PREPARATION FOR MARKET OF AN
AGRICULTURAL COMMODITY. THE TERM ALSO INCLUDES ANY RESIDENTIAL
DWELLING OR WOODLOT SITUATED ON THE PROPERTY.~~

~~"COMMONWEALTH AGENCY."—AS DEFINED IN 2 PA.C.S. § 101
(RELATING TO DEFINITIONS).~~

~~"CONDEMNEE."—A PERSON THAT OWNS PROPERTY SUBJECT TO THE
EXERCISE OF THE POWER OF EMINENT DOMAIN BY A CONDEMNOR.~~

~~"CONDEMNOR."—ANY OF THE FOLLOWING WHICH IS AUTHORIZED BY LAW
TO EXERCISE THE POWER OF EMINENT DOMAIN:~~

~~(1) THE COMMONWEALTH, A COMMONWEALTH AGENCY OR AN
INSTRUMENTALITY OR AUTHORITY OF THE COMMONWEALTH.~~

~~(2) A POLITICAL SUBDIVISION, AN AGENCY OF A POLITICAL
SUBDIVISION OR AN INSTRUMENTALITY OR AUTHORITY OF A POLITICAL
SUBDIVISION.~~

~~(3) A PUBLIC UTILITY AS DEFINED IN 66 PA.C.S. § 102
(RELATING TO DEFINITIONS).~~

~~(4) A PRIVATE ENTITY.~~

~~(5) AN ELECTRICAL COOPERATIVE CORPORATION UNDER 15
PA.C.S. CH. 73 (RELATING TO ELECTRIC COOPERATIVE
CORPORATIONS).~~

~~"EMINENT DOMAIN."—THE POWER OF THE COMMONWEALTH TO TAKE
PRIVATE PROPERTY FOR PUBLIC USE IN RETURN FOR JUST COMPENSATION.~~

~~"PRIVATE ENTERPRISE."—A FOR PROFIT OR NOT FOR PROFIT ENTITY
OR ORGANIZATION. THIS TERM DOES NOT INCLUDE ANY ENTITY OR
ORGANIZATION THAT MEETS THE DEFINITION OF AN INSTITUTION OF~~

~~PURELY PUBLIC CHARITY PURSUANT TO THE ACT OF NOVEMBER 26, 1997
(P.L.508, NO.55), KNOWN AS THE INSTITUTIONS OF PURELY PUBLIC
CHARITY ACT.~~

~~"REDEVELOPMENT AREA." AS DEFINED IN SECTION 3(N) OF THE ACT
OF MAY 24, 1945 (P.L.991, NO.385), KNOWN AS THE URBAN
REDEVELOPMENT LAW.~~

~~"UNIT OF PROPERTY." A PARCEL OF REAL ESTATE OR CONDOMINIUM
UNIT, INCLUDING ANY INTEREST IN COMMON ELEMENTS WITH
IMPROVEMENTS THEREON, IF ANY, THAT IS IDENTIFIED BY A LEGAL
DESCRIPTION IN A RECORDED DEED OR A TAX IDENTIFICATION NUMBER.~~

~~§ 203. APPLICABILITY.~~

~~(A) AUTHORITY. EXCEPT AS SET FORTH IN SUBSECTION (B), THE
LIMITATIONS AND PROTECTIONS SET FORTH IN THIS CHAPTER APPLY TO
THE EXERCISE OF EMINENT DOMAIN BY A CONDEMNOR.~~

~~(B) EXCEPTION. THIS CHAPTER DOES NOT AFFECT ANY OF THE
FOLLOWING:~~

~~(1) THE JURISDICTION OR POWER OF THE PENNSYLVANIA PUBLIC
UTILITY COMMISSION.~~

~~(2) ANY STATUTE PROVIDING FOR THE ASSESSMENT OF BENEFITS
FOR PUBLIC IMPROVEMENT ON THE PROPERTIES BENEFITED.~~

~~(3) THE JURISDICTION OR POWER OF THE PHILADELPHIA
REGIONAL PORT AUTHORITY TO EXERCISE EMINENT DOMAIN WITHIN A
DESIGNATED PORT ZONE FOR A PORT FACILITY AS DEFINED IN THE
ACT OF JULY 10, 1989 (P.L.291, NO.50), KNOWN AS THE
PHILADELPHIA REGIONAL PORT AUTHORITY ACT.~~

~~(4) THE EXERCISE OF EMINENT DOMAIN WITHIN A CITY OF THE
FIRST OR SECOND CLASS IN AREAS THAT WERE CERTIFIED, ON OR
BEFORE THE EFFECTIVE DATE OF THIS CHAPTER, AS BLIGHTED UNDER
SECTION 2 OF THE ACT OF MAY 24, 1945 (P.L.991, NO.385), KNOWN
AS THE URBAN REDEVELOPMENT LAW. THIS PARAGRAPH SHALL EXPIRE~~

1 ~~DECEMBER 31, 2012.~~

2 ~~(5) THE EXERCISE OF EMINENT DOMAIN BY A HOME RULE COUNTY~~
3 ~~OF THE SECOND CLASS A, OR A MUNICIPALITY LOCATED THEREIN, IN~~
4 ~~AREAS THAT WERE CERTIFIED, ON OR BEFORE THE EFFECTIVE DATE OF~~
5 ~~THIS CHAPTER, AS BLIGHTED UNDER SECTION 2 OF THE URBAN~~
6 ~~REDEVELOPMENT LAW. THIS PARAGRAPH SHALL EXPIRE DECEMBER 31,~~
7 ~~2012.~~

8 ~~(C) CONSTRUCTION. NOTHING IN THIS CHAPTER SHALL BE DEEMED~~
9 ~~TO EXPAND OR ENLARGE THE POWER OF A CONDEMNOR TO UTILIZE EMINENT~~
10 ~~DOMAIN.~~

11 ~~§ 204. EMINENT DOMAIN FOR PRIVATE BUSINESS PROHIBITED.~~

12 ~~(A) PROHIBITION. EXCEPT AS SET FORTH IN SUBSECTION (B), THE~~
13 ~~EXERCISE BY ANY CONDEMNOR OF THE POWER OF EMINENT DOMAIN TO TAKE~~
14 ~~PRIVATE PROPERTY IN ORDER TO USE IT FOR PRIVATE ENTERPRISE IS~~
15 ~~PROHIBITED.~~

16 ~~(B) EXCEPTION. SUBSECTION (A) DOES NOT APPLY IF ANY OF THE~~
17 ~~FOLLOWING APPLY:~~

18 ~~(1) (I) THE CONDEMNEE CONSENTS TO THE USE OF THE~~
19 ~~PROPERTY FOR PRIVATE ENTERPRISE; OR~~

20 ~~(II) THE CONDEMNEE DOES NOT FILE OR DOES NOT PREVAIL~~
21 ~~ON PRELIMINARY OBJECTION FILED TO A DECLARATION OF TAKING~~
22 ~~FOR THE ACQUISITION OF CONDEMNEE'S PROPERTY.~~

23 ~~(2) THE PROPERTY IS TAKEN BY, TO THE EXTENT THE PARTY~~
24 ~~HAS THE POWER OF EMINENT DOMAIN, TRANSFERRED OR LEASED TO ANY~~
25 ~~OF THE FOLLOWING:~~

26 ~~(I) A COMMON CARRIER, PUBLIC UTILITY OR RAILROAD AS~~
27 ~~DEFINED IN 66 PA.C.S. § 102 (RELATING TO DEFINITIONS).~~

28 ~~(II) A PRIVATE ENTITY THAT OCCUPIES AN INCIDENTAL~~
29 ~~AREA WITHIN A PUBLIC PROJECT, SUCH AS RETAIL SPACE,~~
30 ~~OFFICE SPACE, RESTAURANT AND FOOD SERVICE FACILITY OR~~

1 ~~SIMILAR PRIVATE ENTITY.~~

2 ~~(3) THERE IS, ON OR ASSOCIATED WITH THE PROPERTY TAKEN,~~
3 ~~A THREAT TO PUBLIC HEALTH OR SAFETY. THIS PARAGRAPH INCLUDES~~
4 ~~THE FOLLOWING:~~

5 ~~(I) REMOVAL OF A PUBLIC NUISANCE.~~

6 ~~(II) REMOVAL OF A STRUCTURE WHICH IS:~~

7 ~~(A) BEYOND REPAIR; OR~~

8 ~~(B) UNFIT FOR HUMAN HABITATION OR USE.~~

9 ~~(4) THE PROPERTY TAKEN IS ABANDONED.~~

10 ~~(5) THE PROPERTY TAKEN MEETS THE REQUIREMENTS OF SECTION~~
11 ~~205 (RELATING TO BLIGHT).~~

12 ~~(6) THE PROPERTY TAKEN IS ACQUIRED BY A CONDEMNOR~~
13 ~~PURSUANT TO SECTION 12.1 OF THE ACT OF MAY 24, 1945 (P.L.991,~~
14 ~~NO.385), KNOWN AS THE URBAN REDEVELOPMENT LAW.~~

15 ~~(7) THE PROPERTY TAKEN IS ACQUIRED FOR THE DEVELOPMENT~~
16 ~~OF LOW INCOME AND MIXED INCOME HOUSING PROJECTS PURSUANT TO~~
17 ~~THE ACT OF MAY 28, 1937 (P.L.955, NO.265), KNOWN AS THE~~
18 ~~HOUSING AUTHORITIES LAW, OR TO BE DEVELOPED USING FINANCIAL~~
19 ~~INCENTIVES AVAILABLE FOR THE DEVELOPMENT OF LOW INCOME AND~~
20 ~~MIXED INCOME HOUSING PROJECTS UNDER:~~

21 ~~(I) SECTION 42 OF THE INTERNAL REVENUE CODE OF 1986~~
22 ~~(PUBLIC LAW 99-514, 26 U.S.C. § 42);~~

23 ~~(II) THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF~~
24 ~~1974 (PUBLIC LAW 93-383, 88 STAT. 633);~~

25 ~~(III) THE CRANSTON GONZALEZ NATIONAL AFFORDABLE~~
26 ~~HOUSING ACT (PUBLIC LAW 101-625, 42 U.S.C. § 12701 ET~~
27 ~~SEQ.);~~

28 ~~(IV) 53 PA.C.S. CH. 60 (RELATING TO OPTIONAL~~
29 ~~AFFORDABLE HOUSING FUNDING);~~

30 ~~(V) THE BROWNFIELDS FOR HOUSING AND REDEVELOPMENT~~

~~ASSISTANCE PROGRAMS OF THE DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT;~~

~~(VI) THE HOMEOWNERSHIP CHOICE PROGRAM OF THE
PENNSYLVANIA HOUSING FINANCE AGENCY; AND~~

~~(VII) ANY SUCCESSOR PROGRAM TO A PROGRAM UNDER THIS
PARAGRAPH.~~

~~(8) THE PROPERTY TAKEN IS ACQUIRED PURSUANT TO THE ACT
OF JUNE 25, 1999 (P.L.179, NO.24), KNOWN AS THE ECONOMIC
DEVELOPMENT EMINENT DOMAIN LAW IN ORDER TO ALLOW FOR THE
REMOVAL OF BLIGHTED PROPERTIES WITHIN THE BORDERS OF A FORMER
MILITARY FACILITY LOCATED IN A COUNTY OF THE SECOND CLASS A.~~

~~(9) THE PROPERTY IS USED OR TO BE USED FOR ANY ROAD,
STREET, HIGHWAY, TRAFFICWAY OR FOR PROPERTY TO BE ACQUIRED TO
PROVIDE ACCESS TO A PUBLIC THOROUGHFARE FOR A PROPERTY WHICH
WOULD BE OTHERWISE INACCESSIBLE AS THE RESULT OF THE USE OF
EMINENT DOMAIN OR FOR INGRESS, EGRESS OR PARKING OF MOTOR
VEHICLES.~~

~~§ 205. BLIGHT.~~

~~(A) SCOPE. THIS SECTION APPLIES NOTWITHSTANDING THE ACT OF
MAY 24, 1945 (P.L.991, NO.385), KNOWN AS THE URBAN REDEVELOPMENT
LAW.~~

~~(B) SINGLE PROPERTY. FOR PURPOSES OF ACQUIRING A SINGLE
UNIT OF PROPERTY BY EMINENT DOMAIN, A CONDEMNOR IS AUTHORIZED OR
PERMITTED TO DECLARE A PROPERTY, EITHER WITHIN OR OUTSIDE OF A
REDEVELOPMENT AREA, TO BE BLIGHTED ONLY IF THE PROPERTY IS ANY
OF THE FOLLOWING:~~

~~(1) A PREMISES WHICH, BECAUSE OF PHYSICAL CONDITION OR
USE, IS REGARDED AS A PUBLIC NUISANCE AT COMMON LAW OR HAS
BEEN DECLARED A PUBLIC NUISANCE IN ACCORDANCE WITH THE
MUNICIPALITY HOUSING, BUILDING, PLUMBING, FIRE OR RELATED~~

1 ~~CODES.~~

2 ~~(2) A PREMISES WHICH, BECAUSE OF PHYSICAL CONDITION, USE~~
3 ~~OR OCCUPANCY, IS CONSIDERED AN ATTRACTIVE NUISANCE TO~~
4 ~~CHILDREN. THIS PARAGRAPH INCLUDES AN ABANDONED:~~

5 ~~(I) WELL;~~

6 ~~(II) SHAFT;~~

7 ~~(III) BASEMENT;~~

8 ~~(IV) EXCAVATION; OR~~

9 ~~(V) UNSAFE FENCE OR STRUCTURE.~~

10 ~~(3) A DWELLING WHICH, BECAUSE IT IS DILAPIDATED,~~
11 ~~UNSANITARY, UNSAFE, VERMIN INFESTED OR LACKING IN THE~~
12 ~~FACILITIES AND EQUIPMENT REQUIRED BY STATUTE OR AN APPLICABLE~~
13 ~~MUNICIPAL CODE, HAS BEEN DESIGNATED BY THE AGENCY RESPONSIBLE~~
14 ~~FOR ENFORCEMENT OF THE STATUTE OR CODE AS UNFIT FOR HUMAN~~
15 ~~HABITATION.~~

16 ~~(4) A STRUCTURE WHICH IS A FIRE HAZARD OR IS OTHERWISE~~
17 ~~DANGEROUS TO THE SAFETY OF PERSONS OR PROPERTY.~~

18 ~~(5) A STRUCTURE FROM WHICH THE UTILITIES, PLUMBING,~~
19 ~~HEATING, SEWERAGE OR OTHER FACILITIES HAVE BEEN DISCONNECTED,~~
20 ~~DESTROYED, REMOVED OR RENDERED INEFFECTIVE SO THAT THE~~
21 ~~PROPERTY IS UNFIT FOR ITS INTENDED USE.~~

22 ~~(6) ANY VACANT OR UNIMPROVED LOT OR PARCEL OF GROUND IN~~
23 ~~A PREDOMINANTLY BUILT UP NEIGHBORHOOD WHICH, BY REASON OF~~
24 ~~NEGLECT OR LACK OF MAINTENANCE, HAS BECOME A PLACE FOR~~
25 ~~ACCUMULATION OF TRASH AND DEBRIS OR A HAVEN FOR RODENTS OR~~
26 ~~OTHER VERMIN.~~

27 ~~(7) AN UNOCCUPIED PROPERTY WHICH HAS BEEN TAX DELINQUENT~~
28 ~~FOR A PERIOD OF TWO YEARS.~~

29 ~~(8) A PROPERTY WHICH IS VACANT BUT NOT TAX DELINQUENT~~
30 ~~AND WHICH HAS NOT BEEN REHABILITATED WITHIN ONE YEAR OF THE~~

1 ~~RECEIPT OF NOTICE TO REHABILITATE FROM THE APPROPRIATE~~
2 ~~ENFORCEMENT AGENCY.~~

3 ~~(9) AN ABANDONED PROPERTY. A PROPERTY SHALL BE~~
4 ~~CONSIDERED ABANDONED UNDER THIS PARAGRAPH IF IT:~~

5 ~~(I) IS A VACANT OR UNIMPROVED LOT OR PARCEL OF~~
6 ~~GROUND ON WHICH A MUNICIPAL LIEN FOR THE COST OF~~
7 ~~DEMOLITION OF A STRUCTURE LOCATED ON THE PROPERTY REMAINS~~
8 ~~UNPAID FOR A PERIOD OF SIX MONTHS;~~

9 ~~(II) IS A VACANT PROPERTY OR VACANT OR UNIMPROVED~~
10 ~~LOT OR PARCEL OF GROUND ON WHICH THE TOTAL OF MUNICIPAL~~
11 ~~LIENS ON THE PROPERTY FOR TAX OR OTHER TYPE OF CLAIM OF~~
12 ~~THE MUNICIPALITY IS IN EXCESS OF 150% OF THE FAIR MARKET~~
13 ~~VALUE OF THE PROPERTY AS ESTABLISHED BY THE BOARD OF~~
14 ~~REVISIONS OF TAXES OR OTHER BODY WITH LEGAL AUTHORITY TO~~
15 ~~DETERMINE THE TAXABLE VALUE OF THE PROPERTY; OR~~

16 ~~(III) HAS BEEN DECLARED ABANDONED BY THE OWNER,~~
17 ~~INCLUDING AN ESTATE THAT IS IN POSSESSION OF THE~~
18 ~~PROPERTY.~~

19 ~~(10) A PROPERTY WHICH HAS DEFECTIVE OR UNUSUAL~~
20 ~~CONDITIONS OF TITLE OR NO KNOWN OWNERS RENDERING TITLE~~
21 ~~UNMARKETABLE.~~

22 ~~(11) A PROPERTY WHICH HAS ENVIRONMENTALLY HAZARDOUS~~
23 ~~CONDITIONS, SOLID WASTE POLLUTION OR CONTAMINATION IN A~~
24 ~~BUILDING OR ON THE LAND WHICH POSES A DIRECT AND IMMEDIATE~~
25 ~~THREAT TO THE HEALTH, SAFETY AND WELFARE OF THE COMMUNITY.~~

26 ~~(12) A PROPERTY HAVING THREE OR MORE OF THE FOLLOWING~~
27 ~~CHARACTERISTICS:~~

28 ~~(I) HAS UNSAFE OR HAZARDOUS CONDITIONS THAT DO NOT~~
29 ~~MEET CURRENT USE, OCCUPANCY OR FIRE CODES;~~

30 ~~(II) HAS UNSAFE EXTERNAL AND INTERNAL ACCESSWAYS;~~

~~(III) IS BEING SERVED BY AN UNSAFE PUBLIC STREET OR
RIGHT OF WAY;~~

~~(IV) VIOLATES THE APPLICABLE PROPERTY MAINTENANCE
CODE ADOPTED BY A MUNICIPALITY AND IS AN IMMEDIATE THREAT
TO PUBLIC HEALTH AND SAFETY;~~

~~(V) IS VACANT;~~

~~(VI) IS LOCATED IN A REDEVELOPMENT AREA WITH A
DENSITY OF AT LEAST 1,000 PEOPLE PER SQUARE MILE OR A
REDEVELOPMENT AREA WITH MORE THAN 90% OF THE UNITS OF
PROPERTY BEING NONRESIDENTIAL OR A MUNICIPALITY WITH A
DENSITY OF AT LEAST 2,500 PEOPLE PER SQUARE MILE.~~

~~(C) MULTIPLE PROPERTIES.~~

~~(1) 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:~~

~~(I) A MAJORITY OF THE UNITS OF PROPERTY MEET ANY OF
THE REQUIREMENTS UNDER SUBSECTION (B) AND REPRESENT A
MAJORITY OF THE GEOGRAPHICAL AREA; OR~~

~~(II) PROPERTIES REPRESENTING A MAJORITY OF THE
GEOGRAPHICAL AREA MEET ONE OR MORE OF THE CONDITIONS SET
FORTH IN SUBSECTION (B)(1) THROUGH (11) OR SATISFY THE
CONDITIONS OF SUBSECTION (B)(12) THAT ARE NECESSARY FOR A
CONDEMNOR TO DECLARE THEM BLIGHTED UNDER SUBSECTION (B)
AND AT LEAST ONE THIRD OF THE UNITS OF PROPERTY MEET TWO
OR MORE OF THE REQUIREMENTS UNDER SUBSECTION (B)(1)
THROUGH (11) OR SATISFY THE CONDITIONS OF SUBSECTION
(B)(12) AND ONE OR MORE OF THE REQUIREMENTS UNDER
SUBSECTION (B)(1) THROUGH (11).~~

~~(2) A CONDEMNOR MAY USE EMINENT DOMAIN TO ACQUIRE ANY~~

UNIT OF PROPERTY WITHIN A BLIGHTED AREA SO DECLARED PURSUANT
TO THIS SECTION.

~~(3) PROPERTIES OWNED BY THE CONDEMNOR WITHIN SUCH
GEOGRAPHICAL AREA MAY BE INCLUDED IN ANY CALCULATION OF
WHETHER SUCH UNITS CONSTITUTE A MAJORITY OF THE GEOGRAPHICAL
AREA UNDER THIS SUBSECTION.~~

~~(4) FOR PURPOSES OF THIS SUBSECTION, A BUILDING
CONTAINING MULTIPLE CONDOMINIUM UNITS SHALL BE TREATED AS ONE
UNIT OF PROPERTY.~~

~~(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 20 YEARS.~~

~~§ 206. EXTRATERRITORIAL TAKINGS.~~

~~NO POLITICAL SUBDIVISION SHALL EXERCISE EMINENT DOMAIN
AUTHORITY AGAINST LAND THAT IS SITUATED IN ANOTHER POLITICAL
SUBDIVISION WITHOUT THE APPROVAL BY RESOLUTION OF THE GOVERNING
BODY OF THE POLITICAL SUBDIVISION IN WHICH THE LAND IS SITUATED.~~

~~§ 207. EMINENT DOMAIN OF AGRICULTURAL PROPERTY.~~

~~(A) APPROVAL REQUIRED. NOTWITHSTANDING ANY PROVISION OF LAW
TO THE CONTRARY, APPROVAL BY THE AGRICULTURAL LANDS CONDEMNATION
APPROVAL BOARD SHALL BE REQUIRED PRIOR TO AUTHORITY OF ANY
AGENCY OF THE COMMONWEALTH OR POLITICAL SUBDIVISION OR MUNICIPAL
AUTHORITY TO EXERCISE POWERS OF EMINENT DOMAIN ON AGRICULTURAL
PROPERTY. APPROVAL SHALL BE OBTAINED IN ACCORDANCE WITH SECTION
13 OF THE ACT OF JUNE 30, 1981 (P.L.128, NO.43), KNOWN AS THE
AGRICULTURAL AREA SECURITY LAW.~~

~~(B) CRITERIA FOR APPROVAL. IN ADDITION TO THE CRITERIA FOR~~

1 ~~APPROVAL PRESCRIBED IN OTHER LAWS, THE AGRICULTURAL LANDS~~
2 ~~CONDEMNATION APPROVAL BOARD SHALL CONSIDER AND DETERMINE WHETHER~~
3 ~~THE CONDEMNOR IS AUTHORIZED UNDER THIS CHAPTER TO TAKE THE~~
4 ~~PROPERTY BY EMINENT DOMAIN.~~

5 ~~(C) DETERMINATION OF BLIGHT. THE EXERCISE OF EMINENT DOMAIN~~
6 ~~POWERS BASED ON A CONDITION OF THE AGRICULTURAL PROPERTY SHALL~~
7 ~~NOT BE AUTHORIZED UNDER SECTION 205 (RELATING TO BLIGHT) UNLESS~~
8 ~~THE AGRICULTURAL LANDS CONDEMNATION APPROVAL BOARD DETERMINES~~
9 ~~THE EXERCISE IS NECESSARY TO PROTECT THE HEALTH AND SAFETY OF~~
10 ~~THE COMMUNITY.~~

11 ~~(D) DISAPPROVAL. THE AGRICULTURAL LANDS CONDEMNATION~~
12 ~~APPROVAL BOARD SHALL DISAPPROVE THE PROPOSED CONDEMNATION IF THE~~
13 ~~BOARD DETERMINES THE CONDEMNOR IS NOT AUTHORIZED UNDER THIS~~
14 ~~CHAPTER TO TAKE THE AGRICULTURAL PROPERTY BY EMINENT DOMAIN.~~

15 ~~SECTION 2. REPEALS ARE AS FOLLOWS:~~

16 ~~(1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER~~
17 ~~PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE ADDITION OF 26~~
18 ~~PA.C.S. § 205.~~

19 ~~(2) AS MUCH OF SECTION 2 OF THE ACT OF MAY 24, 1945~~
20 ~~(P.L.991, NO.385), KNOWN AS THE URBAN REDEVELOPMENT LAW, AS~~
21 ~~RELATES TO CONDEMNATION OF BLIGHTED PREMISES AND THAT IS~~
22 ~~INCONSISTENT WITH THIS ACT, IS REPEALED.~~

23 ~~(3) ALL OTHER ACTS AND PARTS OF ACTS ARE REPEALED~~
24 ~~INSOFAR AS THEY ARE INCONSISTENT WITH THIS ACT.~~

25 ~~SECTION 3. (A) THIS ACT SHALL APPLY TO THE EXERCISE OF THE~~
26 ~~POWER OF EMINENT DOMAIN ON OR AFTER THE EFFECTIVE DATE OF THIS~~
27 ~~SECTION.~~

28 ~~(B) FOR PROPERTY ACQUIRED PURSUANT TO 26 PA.C.S. § 205, THIS~~
29 ~~ACT SHALL NOT APPLY TO UNITS OF PROPERTY IDENTIFIED IN A~~
30 ~~REDEVELOPMENT PROPOSAL APPROVED BY A GOVERNING BODY BEFORE THE~~

~~EFFECTIVE DATE OF THIS SECTION.~~

~~SECTION 4. THIS ACT SHALL TAKE EFFECT IN 120 DAYS.~~

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

TITLE 26

EMINENT DOMAIN

CHAPTER

1. GENERAL PROVISIONS

3. PROCEDURE TO CONDEMN

5. PROCEDURE FOR DETERMINING DAMAGES

7. JUST COMPENSATION AND MEASURE OF DAMAGES

9. SPECIAL DAMAGES FOR DISPLACEMENT

11. EVIDENCE

CHAPTER 1

GENERAL PROVISIONS

SEC.

101. SHORT TITLE OF TITLE.

102. APPLICATION OF TITLE.

103. DEFINITIONS.

§ 101. SHORT TITLE OF TITLE.

THIS TITLE SHALL BE KNOWN AND MAY BE CITED AS THE EMINENT
DOMAIN CODE.

§ 102. APPLICATION OF TITLE.

(A) GENERAL RULE.--THIS TITLE PROVIDES A COMPLETE AND
EXCLUSIVE PROCEDURE AND LAW TO GOVERN ALL CONDEMNATIONS OF
PROPERTY FOR PUBLIC PURPOSES AND THE ASSESSMENT OF DAMAGES.

(B) CONSTRUCTION.--NOTHING IN THIS TITLE SHALL BE CONSTRUED:

(1) TO AFFECT THE JURISDICTION OR POWER OF THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION OR ANY STATUTE
PROVIDING FOR THE ASSESSMENT OF BENEFITS FOR PUBLIC

IMPROVEMENTS ON THE PROPERTIES BENEFITED.

(2) TO ENLARGE OR DIMINISH THE POWER OF CONDEMNATION
GIVEN BY LAW TO ANY CONDEMNOR.

(C) EXTRATERRITORIAL TAKINGS.--NO POLITICAL SUBDIVISION
SHALL EXERCISE EMINENT DOMAIN AUTHORITY AGAINST LAND THAT IS
SITUATED IN ANOTHER POLITICAL SUBDIVISION WITHOUT THE APPROVAL
BY RESOLUTION OF THE SOVEREIGN BODY OF THE POLITICAL SUBDIVISION
IN WHICH THE LAND IS SITUATED.

§ 103. DEFINITIONS.

SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT
PROVISIONS OF THIS TITLE WHICH ARE APPLICABLE TO SPECIFIC
PROVISIONS OF THIS TITLE, THE FOLLOWING WORDS AND PHRASES WHEN
USED IN THIS TITLE SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

"ACQUIRING AGENCY." ANY ENTITY, INCLUDING THE COMMONWEALTH,
VESTED WITH THE POWER OF EMINENT DOMAIN BY THE LAWS OF THIS
COMMONWEALTH. THIS DEFINITION IS SUBJECT TO SECTION 901
(RELATING TO DEFINITIONS).

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

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

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

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

(3) PRIMARILY FOR OUTDOOR ADVERTISING DISPLAY PURPOSES,
IF THE DISPLAY MUST BE MOVED AS A RESULT OF THE PROJECT; OR

(4) BY A NONPROFIT ORGANIZATION.

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

2 (1) DECENT, SAFE AND SANITARY.

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

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

5 (4) FUNCTIONALLY EQUIVALENT.

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

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

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

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

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

20 "COURT." THE COURT OF COMMON PLEAS.

21 "DISPLACED PERSON."

22 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2) OR (3), ANY OF
23 THE FOLLOWING:

24 (I) A CONDEMNEE OR OTHER PERSON THAT MOVES FROM REAL
25 PROPERTY OR MOVES PERSONAL PROPERTY FROM REAL PROPERTY:

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

30 (B) ON WHICH SUCH PERSON IS A RESIDENTIAL TENANT

1 OR CONDUCTS A SMALL BUSINESS OR A FARM OPERATION AS A
2 DIRECT RESULT OF REHABILITATION, DEMOLITION OR OTHER
3 DISPLACING ACTIVITY FOR A PROGRAM OR PROJECT
4 UNDERTAKEN BY AN ACQUIRING AGENCY IF THE DISPLACEMENT
5 IS PERMANENT.

6 (II) A PERSON THAT WAS IN OCCUPANCY OF THE REAL
7 PROPERTY ON OR BEFORE THE DATE OF ACQUISITION,
8 NOTWITHSTANDING THE TERMINATION OR EXPIRATION OF A LEASE
9 ENTERED INTO BEFORE OR AFTER THE EVENT GIVING RISE TO THE
10 DISPLACEMENT.

11 (2) THE TERM DOES NOT INCLUDE ANY OF THE FOLLOWING:

12 (I) A PERSON THAT UNLAWFULLY OCCUPIES THE
13 DISPLACEMENT PROPERTY OR OCCUPIED THE PROPERTY FOR THE
14 PURPOSE OF OBTAINING ASSISTANCE UNDER THIS TITLE.

15 (II) IN ANY CASE IN WHICH THE ACQUIRING AGENCY
16 ACQUIRES REAL PROPERTY FOR A PROGRAM OR PROJECT, A
17 PERSON, OTHER THAN A PERSON THAT WAS AN OCCUPANT OF THE
18 PROPERTY AT THE TIME IT WAS ACQUIRED, THAT OCCUPIES THE
19 PROPERTY ON A RENTAL BASIS FOR A SHORT TERM OR A PERIOD
20 SUBJECT TO TERMINATION WHEN THE PROPERTY IS NEEDED FOR
21 THE PROGRAM OR PROJECT.

22 (3) THIS DEFINITION IS SUBJECT TO SECTION 902(A)(2).

23 "FARM OPERATION." ANY ACTIVITY CONDUCTED SOLELY OR PRIMARILY
24 FOR THE PRODUCTION OF ONE OR MORE AGRICULTURAL PRODUCTS OR
25 COMMODITIES, INCLUDING TIMBER, FOR SALE OR HOME USE AND
26 CUSTOMARILY PRODUCING THESE PRODUCTS OR COMMODITIES IN
27 SUFFICIENT QUANTITY TO BE CAPABLE OF CONTRIBUTING MATERIALLY TO
28 THE OPERATOR'S SUPPORT.

29 "NATURAL DISASTER." A DISASTER OFFICIALLY DECLARED AS A
30 NATURAL DISASTER BY THE GOVERNOR.

1 "PERSONAL PROPERTY." ANY TANGIBLE PROPERTY NOT CONSIDERED TO
2 BE REAL PROPERTY FOR PURPOSES OF GENERAL DAMAGES UNDER THE LAWS
3 OF THIS COMMONWEALTH.

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

7 "SMALL BUSINESS." A BUSINESS THAT HAS LESS THAN 501
8 EMPLOYEES WHO ARE:

9 (1) WORKING AT THE SITE BEING ACQUIRED; OR

10 (2) PERMANENTLY DISPLACED BY A PROGRAM OR PROJECT.

11 "UTILITY." AN ENTITY THAT PROVIDES TO THE PUBLIC:

12 (1) WATER PRODUCTS;

13 (2) ELECTRIC PRODUCTS;

14 (3) GAS PRODUCTS;

15 (4) OIL PRODUCTS;

16 (5) PETROLEUM PRODUCTS;

17 (6) TELEPHONE LINES; OR

18 (7) TELEGRAPH LINES.

19 CHAPTER 3

20 PROCEDURE TO CONDEMN

21 SEC.

22 301. VENUE.

23 302. DECLARATION OF TAKING.

24 303. SECURITY REQUIRED.

25 304. RECORDING NOTICE OF CONDEMNATION.

26 305. NOTICE TO CONDEMNEE.

27 306. PRELIMINARY OBJECTIONS.

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

29 308. REVOCATION OF CONDEMNATION PROCEEDINGS.

30 309. RIGHT TO ENTER PROPERTY PRIOR TO CONDEMNATION.

1 310. ABANDONMENT OF PROJECT.

2 § 301. VENUE.

3 (A) GENERAL RULE.--A CONDEMNATION PROCEEDING SHALL BE
4 BROUGHT IN THE COURT OF THE COUNTY IN WHICH THE PROPERTY IS
5 LOCATED OR, IF THE PROPERTY IS LOCATED IN TWO OR MORE COUNTIES,
6 IN THE COURT OF ANY ONE OF THE COUNTIES.

7 (B) MULTIPLE COUNTIES.--WHERE THE PROPERTY IS LOCATED IN TWO
8 OR MORE COUNTIES AND A PROCEEDING IS COMMENCED IN THE COURT OF
9 ONE OF THE COUNTIES, ALL SUBSEQUENT PROCEEDINGS REGARDING THE
10 SAME PROPERTY SHALL BE BROUGHT IN THE SAME COUNTY.

11 § 302. DECLARATION OF TAKING.

12 (A) CONDEMNATION AND PASSAGE OF TITLE.--

13 (1) CONDEMNATION UNDER THE POWER OF CONDEMNATION GIVEN
14 BY LAW TO A CONDEMNOR SHALL BE EFFECTED ONLY BY THE FILING IN
15 COURT OF A DECLARATION OF TAKING WITH THE SECURITY REQUIRED
16 UNDER SECTION 303(A) (RELATING TO SECURITY REQUIRED).

17 (2) THE TITLE WHICH THE CONDEMNOR ACQUIRES IN THE
18 PROPERTY CONDEMNED SHALL PASS TO THE CONDEMNOR ON THE DATE OF
19 THE FILING, AND THE CONDEMNOR SHALL BE ENTITLED TO POSSESSION
20 UNDER SECTION 307 (RELATING TO POSSESSION, RIGHT OF ENTRY AND
21 PAYMENT OF COMPENSATION).

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

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

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

28 (3) A SPECIFIC REFERENCE TO THE ACTION, WHETHER BY
29 ORDINANCE, RESOLUTION OR OTHERWISE, BY WHICH THE DECLARATION
30 OF TAKING WAS AUTHORIZED, INCLUDING THE DATE WHEN THE ACTION

1 WAS TAKEN AND THE PLACE WHERE THE RECORD MAY BE EXAMINED.

2 (4) A BRIEF DESCRIPTION OF THE PURPOSE OF THE
3 CONDEMNATION.

4 (5) A DESCRIPTION OF THE PROPERTY CONDEMNED, SUFFICIENT
5 FOR IDENTIFICATION, SPECIFYING THE MUNICIPAL CORPORATION AND
6 THE COUNTY OR COUNTIES WHERE THE PROPERTY TAKEN IS LOCATED, A
7 REFERENCE TO THE PLACE OF RECORDING IN THE OFFICE OF THE
8 RECORDER OF DEEDS OF PLANS SHOWING THE PROPERTY CONDEMNED OR
9 A STATEMENT THAT PLANS SHOWING THE PROPERTY CONDEMNED ARE ON
10 THE SAME DAY BEING LODGED FOR RECORD OR FILED IN THE OFFICE
11 OF THE RECORDER OF DEEDS IN THE COUNTY IN ACCORDANCE WITH
12 SECTION 304 (RELATING TO RECORDING NOTICE OF CONDEMNATION).

13 (6) A STATEMENT OF THE NATURE OF THE TITLE ACQUIRED, IF
14 ANY.

15 (7) A STATEMENT SPECIFYING WHERE A PLAN SHOWING THE
16 CONDEMNED PROPERTY MAY BE INSPECTED IN THE COUNTY IN WHICH
17 THE PROPERTY TAKEN IS LOCATED.

18 (8) A STATEMENT OF HOW JUST COMPENSATION HAS BEEN MADE
19 OR SECURED.

20 (C) MORE THAN ONE PROPERTY INCLUDED IN DECLARATION.--THE
21 CONDEMNOR MAY INCLUDE IN ONE DECLARATION OF TAKING ANY OR ALL OF
22 THE PROPERTIES SPECIFIED IN THE ACTION BY WHICH THE DECLARATION
23 OF TAKING WAS AUTHORIZED.

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

27 (E) FILING.--THE CONDEMNOR SHALL FILE WITHIN ONE YEAR OF THE
28 ACTION AUTHORIZING THE DECLARATION OF TAKING A DECLARATION OF
29 TAKING COVERING ALL PROPERTIES INCLUDED IN THE AUTHORIZATION NOT
30 OTHERWISE ACQUIRED BY THE CONDEMNOR WITHIN THIS TIME.

1 § 303. SECURITY REQUIRED.

2 (A) BOND.--EXCEPT AS PROVIDED IN SUBSECTION (B), EVERY
3 CONDEMNOR SHALL GIVE SECURITY TO EFFECT THE CONDEMNATION BY
4 FILING WITH THE DECLARATION OF TAKING ITS BOND, WITHOUT SURETY,
5 TO THE COMMONWEALTH FOR THE USE OF THE OWNER OF THE PROPERTY
6 INTERESTS CONDEMNED, THE CONDITION OF WHICH SHALL BE THAT THE
7 CONDEMNOR SHALL PAY THE DAMAGES DETERMINED BY LAW.

8 (B) PLEDGE OF TAX REVENUES.--

9 (1) WHERE A CONDEMNOR HAS THE POWER OF TAXATION, IT
10 SHALL NOT BE REQUIRED TO FILE A BOND WITH THE DECLARATION OF
11 TAKING.

12 (2) THE FUNDS RAISED OR AUTHORIZED BY LAW TO BE RAISED
13 BY THE POWER OF TAXATION OF THE CONDEMNOR SHALL BE DEEMED
14 PLEDGED AND ARE MADE SECURITY FOR THE PAYMENT OF THE DAMAGES
15 DETERMINED BY LAW.

16 (C) INSUFFICIENT SECURITY.--THE COURT, UPON PRELIMINARY
17 OBJECTIONS OF THE CONDEMNEE UNDER AND WITHIN THE TIME SET FORTH
18 IN SECTION 306(A) (RELATING TO PRELIMINARY OBJECTIONS), MAY
19 REQUIRE THE CONDEMNOR TO GIVE BOND AND SECURITY AS THE COURT
20 DEEMS PROPER IF IT APPEARS TO THE COURT THAT THE BOND OR POWER
21 OF TAXATION OF THE CONDEMNOR IS INSUFFICIENT SECURITY.

22 § 304. RECORDING NOTICE OF CONDEMNATION.

23 (A) COUNTY OF RECORDING.--

24 (1) THE CONDEMNOR, UPON FILING ITS DECLARATION OF
25 TAKING, SHALL ON THE SAME DAY LODGE FOR RECORD A NOTICE OF
26 THE DECLARATION IN THE OFFICE OF THE RECORDER OF DEEDS OF THE
27 COUNTY IN WHICH THE PROPERTY IS LOCATED.

28 (2) IF THE PROPERTY IS LOCATED IN TWO OR MORE COUNTIES,
29 THE NOTICE SHALL BE RECORDED IN EACH COUNTY.

30 (B) NOTICE AND RECORDING REQUIREMENTS.--

1 (1) THE NOTICE SHALL SPECIFY:

2 (I) THE COURT TERM AND NUMBER OF THE DECLARATION OF
3 TAKING.

4 (II) THE DATE IT WAS FILED.

5 (III) A DESCRIPTION OR PLAN OF THE PROPERTY
6 CONDEMNED SUFFICIENT FOR IDENTIFICATION.

7 (IV) THE NAMES OF THE OWNERS OF THE PROPERTY
8 INTERESTS CONDEMNED, AS REASONABLY KNOWN TO THE
9 CONDEMNOR.

10 (2) THE NOTICES SHALL BE INDEXED IN THE DEED INDICES
11 SHOWING THE CONDEMNEE SET FORTH IN THE NOTICE AS GRANTOR AND
12 THE CONDEMNOR AS GRANTEE.

13 (3) IF PLANS ARE TO BE RECORDED AS PART OF THE NOTICE,
14 THEY SHALL BE SUBMITTED ON STANDARD LEGAL SIZE PAPER. IF
15 PLANS ARE TO BE FILED AS PART OF THE NOTICE, THEY SHALL BE IN
16 LEGIBLE SCALE AND FILED IN A CONDEMNATION BOOK OR FILE OR
17 MICROFILMED, WITH A NOTATION AS TO THE CONDEMNATION BOOK AND
18 PAGE NUMBER, FILE NUMBER OR MICROFILM NUMBER TO BE MADE BY
19 THE RECORDER ON THE MARGIN OF THE NOTICE.

20 (4) UPON THE NOTICE BEING ASSIGNED A BOOK AND PAGE
21 NUMBER BY THE RECORDER OF DEEDS THE CONDEMNOR SHALL FILE WITH
22 THE PROTHONOTARY UNDER THE CAPTION OF THE DECLARATION OF
23 TAKING A MEMORANDUM OF THE BOOK AND PAGE NUMBER IN WHICH THE
24 NOTICE IS RECORDED.

25 (C) FEES.--THE RECORDER SHALL RECEIVE AS A FEE FOR RECORDING
26 EACH NOTICE THE SUMS AS PROVIDED BY THE ACT OF JUNE 12, 1919
27 (P.L.476, NO.240), REFERRED TO AS THE SECOND CLASS COUNTY
28 RECORDER OF DEEDS FEE LAW, AND THE ACT OF APRIL 8, 1982
29 (P.L.310, NO.87), REFERRED TO AS THE RECORDER OF DEEDS FEE LAW.

30 § 305. NOTICE TO CONDEMNEE.

1 (A) WRITTEN NOTICE.--WITHIN 30 DAYS AFTER THE FILING OF THE
2 DECLARATION OF TAKING, THE CONDEMNOR SHALL GIVE WRITTEN NOTICE
3 OF THE FILING TO THE CONDEMNEE, TO ANY MORTGAGEE OF RECORD, AND
4 TO ANY LIENHOLDER OF RECORD.

5 (B) SERVICE.--

6 (1) THE NOTICE SHALL BE SERVED WITHIN OR WITHOUT THIS
7 COMMONWEALTH, BY ANY COMPETENT ADULT, IN THE SAME MANNER AS
8 IN A CIVIL ACTION OR BY REGISTERED MAIL TO THE LAST KNOWN
9 ADDRESS OF THE PERSON BEING SERVED.

10 (2) IF SERVICE CANNOT BE MADE IN THE MANNER SET FORTH
11 UNDER PARAGRAPH (1), THEN SERVICE SHALL BE MADE BY POSTING A
12 COPY OF THE NOTICE UPON THE MOST PUBLIC PART OF THE PROPERTY
13 AND BY PUBLICATION OF A COPY OF THE NOTICE, OMITTING THE PLOT
14 PLAN REQUIRED BY SUBSECTION (C)(8), ONE TIME EACH IN ONE
15 NEWSPAPER OF GENERAL CIRCULATION AND THE LEGAL JOURNAL, IF
16 ANY, PUBLISHED IN THE COUNTY.

17 (C) CONTENTS.--THE NOTICE TO BE GIVEN THE CONDEMNEE SHALL
18 STATE:

19 (1) THE CAPTION OF THE CASE.

20 (2) THE DATE OF FILING OF THE DECLARATION OF TAKING AND
21 THE COURT TERM AND NUMBER.

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

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

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

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

30 (7) A BRIEF DESCRIPTION OF THE PURPOSE OF THE

1 CONDEMNATION.

2 (8) A STATEMENT THAT THE CONDEMNEE'S PROPERTY HAS BEEN
3 CONDEMNED AND A REASONABLE IDENTIFICATION OF THE PROPERTY.

4 (9) IN THE CASE OF A PARTIAL TAKING, A PLOT PLAN SHOWING
5 THE CONDEMNEE'S ENTIRE PROPERTY AND THE AREA TAKEN.

6 (10) A STATEMENT OF THE NATURE OF THE TITLE ACQUIRED.

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

10 (12) A STATEMENT OF HOW JUST COMPENSATION HAS BEEN MADE
11 OR SECURED.

12 (13) A STATEMENT THAT, IF THE CONDEMNEE WISHES TO
13 CHALLENGE THE POWER OR THE RIGHT OF THE CONDEMNOR TO
14 APPROPRIATE THE CONDEMNED PROPERTY, THE SUFFICIENCY OF THE
15 SECURITY, THE PROCEDURE FOLLOWED BY THE CONDEMNOR OR THE
16 DECLARATION OF TAKING, THE CONDEMNEE MUST FILE PRELIMINARY
17 OBJECTIONS WITHIN 30 DAYS AFTER BEING SERVED WITH NOTICE OF
18 CONDEMNATION.

19 (D) COMPLIANCE.--SERVICE OF A COPY OF THE DECLARATION OF
20 TAKING, TOGETHER WITH THE INFORMATION AND NOTICE REQUIRED BY
21 SUBSECTION (C)(2), (8), (9) AND (13), SHALL CONSTITUTE
22 COMPLIANCE WITH THE NOTICE REQUIREMENTS OF THIS SECTION.

23 (E) PROOF OF SERVICE.--THE CONDEMNOR SHALL FILE PROOF OF
24 SERVICE OF THE NOTICE.

25 § 306. PRELIMINARY OBJECTIONS.

26 (A) FILING AND EXCLUSIVE METHOD OF CHALLENGING CERTAIN
27 MATTERS.--

28 (1) WITHIN 30 DAYS AFTER BEING SERVED WITH NOTICE OF
29 CONDEMNATION, THE CONDEMNEE MAY FILE PRELIMINARY OBJECTIONS
30 TO THE DECLARATION OF TAKING.

1 (2) THE COURT UPON CAUSE SHOWN MAY EXTEND THE TIME FOR
2 FILING PRELIMINARY OBJECTIONS.

3 (3) PRELIMINARY OBJECTIONS SHALL BE LIMITED TO AND SHALL
4 BE THE EXCLUSIVE METHOD OF CHALLENGING:

5 (I) THE POWER OR RIGHT OF THE CONDEMNOR TO
6 APPROPRIATE THE CONDEMNED PROPERTY UNLESS IT HAS BEEN
7 PREVIOUSLY ADJUDICATED.

8 (II) THE SUFFICIENCY OF THE SECURITY.

9 (III) THE DECLARATION OF TAKING.

10 (IV) ANY OTHER PROCEDURE FOLLOWED BY THE CONDEMNOR.

11 (B) WAIVER.--FAILURE TO RAISE BY PRELIMINARY OBJECTIONS THE
12 ISSUES LISTED IN SUBSECTION (A) SHALL CONSTITUTE A WAIVER.
13 ISSUES OF COMPENSATION MAY NOT BE RAISED BY PRELIMINARY
14 OBJECTIONS.

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

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

19 (E) SERVICE.--THE CONDEMNEE SHALL SERVE A COPY OF THE
20 PRELIMINARY OBJECTIONS ON THE CONDEMNOR WITHIN 72 HOURS AFTER
21 FILING THEM.

22 (F) DISPOSITION.--

23 (1) THE COURT SHALL DETERMINE PROMPTLY ALL PRELIMINARY
24 OBJECTIONS AND MAKE PRELIMINARY AND FINAL ORDERS AND DECREES
25 AS JUSTICE SHALL REQUIRE, INCLUDING THE REVESTING OF TITLE.

26 (2) IF AN ISSUE OF FACT IS RAISED, THE COURT SHALL TAKE
27 EVIDENCE BY DEPOSITIONS OR OTHERWISE.

28 (3) THE COURT MAY ALLOW AMENDMENT OR DIRECT THE FILING
29 OF A MORE SPECIFIC DECLARATION OF TAKING.

30 (G) COSTS AND EXPENSES.--

1 (1) IF PRELIMINARY OBJECTIONS WHICH HAVE THE EFFECT OF
2 TERMINATING THE CONDEMNATION ARE SUSTAINED, THE CONDEMNOR
3 SHALL REIMBURSE THE CONDEMNEE FOR REASONABLE APPRAISAL,
4 ATTORNEY AND ENGINEERING FEES AND OTHER COSTS AND EXPENSES
5 ACTUALLY INCURRED BECAUSE OF THE CONDEMNATION PROCEEDINGS.

6 (2) THE COURT SHALL ASSESS COSTS AND EXPENSES UNDER THIS
7 SUBSECTION.

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

9 (A) POSSESSION OR RIGHT OF ENTRY OF CONDEMNOR.--

10 (1) (I) THE CONDEMNOR, AFTER THE EXPIRATION OF THE TIME
11 FOR FILING PRELIMINARY OBJECTIONS BY THE CONDEMNEE TO THE
12 DECLARATION OF TAKING, SHALL BE ENTITLED TO POSSESSION OR
13 RIGHT OF ENTRY UPON PAYMENT OF, OR A WRITTEN OFFER TO PAY
14 TO THE CONDEMNEE, THE AMOUNT OF JUST COMPENSATION AS
15 ESTIMATED BY THE CONDEMNOR.

16 (II) THE CONDEMNOR SHALL BE ENTITLED TO POSSESSION
17 OR RIGHT OF ENTRY UPON AN EASEMENT WITHOUT THE PAYMENT OF
18 OR OFFER TO PAY THE ESTIMATED JUST COMPENSATION IF THE
19 CONDEMNOR HAS THE RIGHT TO ASSESS THE PROPERTY FOR
20 BENEFITS.

21 (III) IF A CONDEMNEE OR ANY OTHER PERSON THEN
22 REFUSES TO DELIVER POSSESSION OR PERMIT RIGHT OF ENTRY,
23 THE PROTHONOTARY UPON PRAECIPE OF THE CONDEMNOR SHALL
24 ISSUE A RULE, RETURNABLE IN FIVE DAYS AFTER SERVICE UPON
25 THE CONDEMNEE OR THE OTHER PERSON, TO SHOW CAUSE WHY A
26 WRIT OF POSSESSION SHOULD NOT ISSUE.

27 (IV) THE COURT, UNLESS PRELIMINARY OBJECTIONS
28 WARRANTING DELAY ARE PENDING, MAY ISSUE A WRIT OF
29 POSSESSION CONDITIONED EXCEPT AS PROVIDED IN THIS
30 SUBSECTION UPON PAYMENT TO THE CONDEMNEE OR INTO COURT OF

1 THE ESTIMATED JUST COMPENSATION AND ON ANY OTHER TERMS AS
2 THE COURT MAY DIRECT.

3 (2) A COURT MAY ISSUE A WRIT OF POSSESSION TO A
4 CONDEMNOR PRIOR TO THE DISPOSITION OF PRELIMINARY OBJECTIONS.

5 (I) IF IT IS FINALLY DETERMINED THAT A CONDEMNATION
6 IS INVALID IN A CASE IN WHICH PRELIMINARY OBJECTIONS
7 CHALLENGE THE VALIDITY OF A RIGHT-OF-WAY OR EASEMENT FOR
8 OCCUPATION BY A UTILITY, THE AFFECTED OWNERS MAY RECOVER
9 DAMAGES FOR INJURIES SUSTAINED BY TAKING POSSESSION UNDER
10 THIS PARAGRAPH AND ARE ENTITLED TO APPROPRIATE EQUITABLE
11 RELIEF.

12 (II) IF IT IS FINALLY DETERMINED THAT ANY OTHER
13 CONDEMNATION IS INVALID AFTER THE GRANTING OF POSSESSION
14 UNDER THIS PARAGRAPH, THE AFFECTED OWNERS MAY RECOVER
15 COSTS AND EXPENSES UNDER SECTION 306(G) AND ARE ENTITLED
16 TO DISPOSITION UNDER SECTION 306(F).

17 (B) TENDER OF POSSESSION OR RIGHT OF ENTRY BY CONDEMNEE.--

18 (1) IF WITHIN 60 DAYS FROM THE FILING OF THE DECLARATION
19 OF TAKING THE CONDEMNOR HAS NOT PAID JUST COMPENSATION AS
20 PROVIDED IN SUBSECTION (A), THE CONDEMNEE MAY TENDER
21 POSSESSION OR RIGHT OF ENTRY IN WRITING AND THE CONDEMNOR
22 SHALL THEN MAKE PAYMENT OF THE JUST COMPENSATION DUE THE
23 CONDEMNEE AS ESTIMATED BY THE CONDEMNOR.

24 (2) IF THE CONDEMNOR FAILS TO MAKE THE PAYMENT, THE
25 COURT, UPON PETITION OF THE CONDEMNEE, MAY COMPEL THE
26 CONDEMNOR TO FILE A DECLARATION OF ESTIMATED JUST
27 COMPENSATION OR, IF THE CONDEMNOR FAILS OR REFUSES TO FILE
28 THE DECLARATION, MAY AT THE COST OF THE CONDEMNOR APPOINT AN
29 IMPARTIAL EXPERT APPRAISER TO ESTIMATE JUST COMPENSATION.

30 (3) THE COURT MAY, AFTER HEARING, ENTER JUDGMENT FOR THE

1 AMOUNT OF THE ESTIMATED JUST COMPENSATION.

2 (C) COMPENSATION WITHOUT PREJUDICE.--

3 (1) THE COMPENSATION PAID UNDER SUBSECTIONS (A) AND (B)
4 SHALL BE WITHOUT PREJUDICE TO THE RIGHTS OF EITHER THE
5 CONDEMNOR OR THE CONDEMNEE TO PROCEED TO A FINAL
6 DETERMINATION OF THE JUST COMPENSATION, AND ANY PAYMENTS MADE
7 SHALL BE CONSIDERED ONLY AS PAYMENTS PRO TANTO OF THE JUST
8 COMPENSATION AS FINALLY DETERMINED.

9 (2) FOLLOWING THE RENDITION OF THE VERDICT, THE COURT
10 SHALL MOLD THE VERDICT TO DEDUCT THE ESTIMATED JUST
11 COMPENSATION PREVIOUSLY PAID BY THE CONDEMNOR.

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

16 § 308. REVOCATION OF CONDEMNATION PROCEEDINGS.

17 (A) DECLARATION OF RELINQUISHMENT.--

18 (1) THE CONDEMNOR, BY FILING A DECLARATION OF
19 RELINQUISHMENT IN COURT WITHIN TWO YEARS FROM THE FILING OF
20 THE DECLARATION OF TAKING AND BEFORE HAVING MADE THE PAYMENT
21 PROVIDED IN SECTION 307(A) OR (B) (RELATING TO POSSESSION,
22 RIGHT OF ENTRY AND PAYMENT OF COMPENSATION) OR AS TO WHICH
23 THE CONDEMNEE HAS NOT TENDERED POSSESSION OF THE CONDEMNED
24 PROPERTY AS PROVIDED IN SECTION 307, MAY RELINQUISH ALL OR
25 ANY PART OF THE PROPERTY CONDEMNED THAT IT HAS NOT TAKEN
26 ACTUAL POSSESSION OF FOR USE IN THE IMPROVEMENT.

27 (2) THE TITLE SHALL THEN REVEST IN THE CONDEMNEE AS OF
28 THE DATE OF THE FILING OF THE DECLARATION OF TAKING AND ALL
29 MORTGAGES AND OTHER LIENS EXISTING AS OF THAT DATE AND NOT
30 THEREAFTER DISCHARGED SHALL BE REINSTATED.

(B) NOTICE.--NOTICE OF THE RELINQUISHMENT SHALL BE:

(1) RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS OF THE COUNTY IN WHICH THE PROPERTY TAKEN IS LOCATED, WITH THE CONDEMNOR AS THE GRANTOR AND THE CONDEMNEE AS THE GRANTEE.

(2) SERVED ON THE CONDEMNEE, ANY MORTGAGEE OF RECORD AND ANY LIENHOLDER OF RECORD IN THE SAME MANNER AS PROVIDED FOR SERVICE OF THE DECLARATION OF TAKING.

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

(D) COSTS AND EXPENSES.--WHERE CONDEMNED PROPERTY IS RELINQUISHED, THE CONDEMNEE SHALL BE REIMBURSED BY THE CONDEMNOR FOR REASONABLE COSTS AND EXPENSES AS PROVIDED IN SECTION 306(G) (RELATING TO PRELIMINARY OBJECTIONS).

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

§ 309. RIGHT TO ENTER PROPERTY PRIOR TO CONDEMNATION.

(A) GENERAL RULE.--PRIOR TO THE FILING OF THE DECLARATION OF TAKING, THE CONDEMNOR OR ITS EMPLOYEES OR AGENTS SHALL HAVE THE RIGHT TO ENTER UPON ANY LAND OR IMPROVEMENT IN ORDER TO MAKE STUDIES, SURVEYS, TESTS, SOUNDINGS AND APPRAISALS.

(B) NOTICE TO OWNER REQUIRED.--THE OWNER OF THE LAND OR THE PARTY IN WHOSE NAME THE PROPERTY IS ASSESSED SHALL BE NOTIFIED TEN DAYS PRIOR TO ENTRY ON THE PROPERTY.

(C) DAMAGES.--

(1) ANY ACTUAL DAMAGES SUSTAINED BY THE OWNER OF A PROPERTY INTEREST IN THE PROPERTY ENTERED UPON BY THE

1 CONDEMNOR SHALL BE PAID BY THE CONDEMNOR.

2 (2) DAMAGES SHALL BE ASSESSED BY THE COURT, OR THE COURT
3 MAY REFER THE MATTER TO VIEWERS TO ASCERTAIN AND ASSESS THE
4 DAMAGES SUSTAINED BY THE CONDEMNEE.

5 (D) CONSTRUCTION.--THE EXERCISE OF THIS RIGHT OF ENTRY BY
6 THE CONDEMNOR SHALL NEITHER CONSTITUTE A CONDEMNATION NOR BE
7 INTERPRETED AS A NOTICE OF AN INTENT TO ACQUIRE THE REAL
8 PROPERTY.

9 § 310. ABANDONMENT OF PROJECT.

10 (A) DISPOSITION OF PROPERTY.--

11 (1) IF A CONDEMNOR HAS CONDEMNED A FEE AND THEN ABANDONS
12 THE PURPOSE FOR WHICH THE PROPERTY HAS BEEN CONDEMNED, THE
13 CONDEMNOR MAY DISPOSE OF IT BY SALE OR OTHERWISE.

14 (2) IF THE PROPERTY HAS NOT BEEN SUBSTANTIALLY IMPROVED,
15 IT MAY NOT BE DISPOSED OF WITHIN THREE YEARS AFTER
16 CONDEMNATION WITHOUT FIRST BEING OFFERED TO THE CONDEMNEE AT
17 THE SAME PRICE PAID TO THE CONDEMNEE BY THE CONDEMNOR.

18 (3) IF THE PROPERTY IS NOT LOCATED WITHIN THE CORPORATE
19 BOUNDARIES OF A COUNTY OF THE FIRST OR SECOND CLASS AND HAS
20 NOT BEEN SUBSTANTIALLY IMPROVED AND WAS DEVOTED TO
21 AGRICULTURAL USE AT THE TIME OF THE CONDEMNATION, IT MAY NOT
22 BE DISPOSED OF WITHIN 12 YEARS AFTER CONDEMNATION WITHOUT
23 FIRST BEING OFFERED TO THE CONDEMNEE AT THE SAME PRICE PAID
24 TO THE CONDEMNEE BY THE CONDEMNOR.

25 (B) NOTICE.--THE CONDEMNEE SHALL BE SERVED WITH NOTICE OF
26 THE OFFER IN THE SAME MANNER AS PRESCRIBED FOR THE SERVICE OF
27 NOTICES IN SECTION 305(B) (RELATING TO NOTICE TO CONDEMNEE) AND
28 SHALL HAVE 90 DAYS AFTER RECEIPT OF NOTICE TO MAKE WRITTEN
29 ACCEPTANCE.

30 (C) CERTAIN CONDITIONAL OFFERS PROHIBITED.--THE CONDEMNOR

1 MAY NOT CONDITION ANY OFFER REQUIRED TO BE MADE TO A CONDEMNEE
2 UNDER SUBSECTION (A) ON THE PAYMENT BY THE CONDEMNEE OF
3 ADDITIONAL FEES, REAL ESTATE TAXES OR PAYMENTS IN LIEU OF TAXES
4 OR OTHER COSTS.

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

8 "AGRICULTURAL COMMODITY." ANY PLANT AND ANIMAL PRODUCTS,
9 INCLUDING CHRISTMAS TREES, PRODUCED IN THIS COMMONWEALTH FOR
10 COMMERCIAL PURPOSES.

11 "AGRICULTURAL USE." USE OF THE LAND FOR THE PURPOSE OF
12 PRODUCING AN AGRICULTURAL COMMODITY OR WHEN DEVOTED TO AND
13 MEETING THE REQUIREMENTS AND QUALIFICATIONS FOR PAYMENTS OR
14 OTHER COMPENSATION PURSUANT TO A SOIL CONSERVATION PROGRAM UNDER
15 AN AGREEMENT WITH AN AGENCY OF THE FEDERAL GOVERNMENT. LAND
16 CONTAINING A FARMHOUSE OR OTHER BUILDINGS RELATED TO FARMING
17 SHALL BE DEEMED TO BE IN AGRICULTURAL USE.

18 CHAPTER 5

19 PROCEDURE FOR DETERMINING DAMAGES

20 SEC.

21 501. AGREEMENT AS TO DAMAGES.

22 502. PETITION FOR APPOINTMENT OF VIEWERS.

23 503. VIEW.

24 504. APPOINTMENT OF VIEWERS.

25 505. SERVICE OF NOTICE OF VIEW AND HEARING.

26 506. ADDITIONAL CONDEMNEDS, MORTGAGEES AND INTERVENTION.

27 507. JOINT CLAIMS.

28 508. APPOINTMENT OF TRUSTEE OR GUARDIAN AD LITEM.

29 509. FURNISHING OF PLANS TO VIEWERS.

30 510. POWERS OF VIEWERS.

1 511. ADMINISTRATIVE MATTERS FOR VIEWERS' HEARINGS.
2 512. REPORT OF VIEWERS.
3 513. DISAGREEMENT.
4 514. FILING OF REPORT OF VIEWERS.
5 515. REPORTS.
6 516. RIGHT OF APPEAL.
7 517. APPEALS.
8 518. DISPOSITION OF APPEAL.
9 519. ALLOCATION OF DAMAGES.
10 520. WAIVER OF VIEWERS' PROCEEDINGS AND TERMINATION BY
11 STIPULATION.
12 521. LIENS AND DISTRIBUTION OF DAMAGES.
13 522. PAYMENT INTO COURT AND DISTRIBUTION.
14 § 501. AGREEMENT AS TO DAMAGES.

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

20 § 502. PETITION FOR APPOINTMENT OF VIEWERS.

21 (A) CONTENTS OF PETITION.--A CONDEMNOR, CONDEMNEE OR
22 DISPLACED PERSON MAY FILE A PETITION REQUESTING THE APPOINTMENT
23 OF VIEWERS, SETTING FORTH:

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

26 (2) THE DATE OF THE FILING OF THE DECLARATION OF TAKING
27 AND WHETHER ANY PRELIMINARY OBJECTIONS HAVE BEEN FILED AND
28 REMAIN UNDISPOSED OF.

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

1 (4) THE NAMES AND ADDRESSES OF ALL CONDEMNED, DISPLACED
2 PERSONS AND MORTGAGEES KNOWN TO THE PETITIONER TO HAVE AN
3 INTEREST IN THE PROPERTY ACQUIRED AND THE NATURE OF THEIR
4 INTEREST.

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

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

8 (B) PROPERTY INCLUDED IN CONDEMNOR'S PETITION.--THE
9 CONDEMNOR MAY INCLUDE IN ITS PETITION ANY OR ALL OF THE PROPERTY
10 INCLUDED IN THE DECLARATION OF TAKING.

11 (C) CONDEMNATION WHERE NO DECLARATION OF TAKING HAS BEEN
12 FILED.--

13 (1) AN OWNER OF A PROPERTY INTEREST WHO ASSERTS THAT THE
14 OWNER'S PROPERTY INTEREST HAS BEEN CONDEMNED WITHOUT THE
15 FILING OF A DECLARATION OF TAKING MAY FILE A PETITION FOR THE
16 APPOINTMENT OF VIEWERS SUBSTANTIALLY IN THE FORM PROVIDED FOR
17 IN SUBSECTION (A) SETTING FORTH THE FACTUAL BASIS OF THE
18 PETITION.

19 (2) THE COURT SHALL DETERMINE WHETHER A CONDEMNATION HAS
20 OCCURRED, AND, IF THE COURT DETERMINES THAT A CONDEMNATION
21 HAS OCCURRED, THE COURT SHALL DETERMINE THE CONDEMNATION DATE
22 AND THE EXTENT AND NATURE OF ANY PROPERTY INTEREST CONDEMNED.

23 (3) THE COURT SHALL ENTER AN ORDER SPECIFYING ANY
24 PROPERTY INTEREST WHICH HAS BEEN CONDEMNED AND THE DATE OF
25 THE CONDEMNATION.

26 (4) A COPY OF THE ORDER AND ANY MODIFICATION SHALL BE
27 FILED BY THE CONDEMNOR IN THE OFFICE OF THE RECORDER OF DEEDS
28 OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED AND SHALL BE
29 INDEXED IN THE DEED INDICES SHOWING THE CONDEMNED AS GRANTOR
30 AND THE CONDEMNOR AS GRANTEE.

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

§ 503. VIEW.

IN EVERY PROCEEDING:

(1) AT LEAST ONE OF THE VIEWERS APPOINTED SHALL BE AN ATTORNEY AT LAW WHO SHALL BE CHAIRMAN OF THE BOARD AND WHO SHALL ATTEND THE VIEW.

(2) AT LEAST TWO OF THE THREE VIEWERS APPOINTED SHALL VIEW THE PROPERTY IN QUESTION.

§ 504. APPOINTMENT OF VIEWERS.

(A) COURT TO APPOINT.--

(1) UPON THE FILING OF A PETITION FOR THE APPOINTMENT OF VIEWERS, THE COURT, UNLESS PRELIMINARY OBJECTIONS TO THE VALIDITY OF THE CONDEMNATION OR JURISDICTION, WARRANTING DELAY, ARE PENDING, SHALL PROMPTLY APPOINT THREE VIEWERS, WHO SHALL VIEW THE PREMISES, HOLD HEARINGS AND FILE A REPORT.

(2) IN COUNTIES OF THE FIRST CLASS, THE COURT MAY APPOINT AN ALTERNATE VIEWER IN ADDITION TO THE THREE VIEWERS SPECIFICALLY APPOINTED.

(3) THE PROTHONOTARY SHALL PROMPTLY NOTIFY THE VIEWERS OF THEIR APPOINTMENT UNLESS A LOCAL RULE PROVIDES ANOTHER METHOD OF NOTIFICATION.

(4) NO VIEWER SHALL REPRESENT A CLIENT OR TESTIFY AS AN EXPERT WITNESS BEFORE THE BOARD.

(B) SERVICE OF PETITION FOR THE APPOINTMENT OF VIEWERS AND ORDER APPOINTING VIEWERS.--THE PETITIONERS SHALL PROMPTLY SEND TO ALL OTHER PARTIES BY REGISTERED MAIL, RETURN RECEIPT

1 REQUESTED, A CERTIFIED TRUE COPY OF THE PETITION FOR THE
2 APPOINTMENT OF VIEWERS AND A COPY OF THE COURT ORDER APPOINTING
3 THE VIEWERS IF AN ORDER HAS BEEN ENTERED. A COPY OF THE PETITION
4 AND ORDER, IF ENTERED, SHALL ALSO BE MAILED TO ALL MORTGAGEES
5 AND OTHER LIENHOLDERS OF RECORD.

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

10 (D) PRELIMINARY OBJECTIONS.--

11 (1) ANY OBJECTION TO THE APPOINTMENT OF VIEWERS MAY BE
12 RAISED BY PRELIMINARY OBJECTIONS FILED WITHIN 30 DAYS AFTER
13 RECEIPT OF NOTICE OF THE APPOINTMENT OF VIEWERS.

14 (2) OBJECTIONS TO THE FORM OF THE PETITION OR THE
15 APPOINTMENT OR THE QUALIFICATIONS OF THE VIEWERS IN ANY
16 PROCEEDING OR TO THE LEGAL SUFFICIENCY OR FACTUAL BASIS OF A
17 PETITION FILED UNDER SECTION 502(C) (RELATING TO PETITION FOR
18 APPOINTMENT OF VIEWERS) ARE WAIVED UNLESS INCLUDED IN
19 PRELIMINARY OBJECTIONS.

20 (3) AN ANSWER WITH OR WITHOUT NEW MATTER MAY BE FILED
21 WITHIN 20 DAYS OF SERVICE OF PRELIMINARY OBJECTIONS, AND A
22 REPLY TO NEW MATTER MAY BE FILED WITHIN 20 DAYS OF SERVICE OF
23 THE ANSWER.

24 (4) THE COURT SHALL DETERMINE PROMPTLY ALL PRELIMINARY
25 OBJECTIONS AND MAKE ANY ORDERS AND DECREES AS JUSTICE
26 REQUIRES.

27 (5) IF AN ISSUE OF FACT IS RAISED, THE COURT SHALL
28 CONDUCT AN EVIDENTIARY HEARING OR ORDER THAT EVIDENCE BE
29 TAKEN BY DEPOSITION OR OTHERWISE, BUT IN NO EVENT SHALL
30 EVIDENCE BE TAKEN BY THE VIEWERS ON THIS ISSUE.

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

2 (A) GENERAL RULE.--NOTICE OF THE VIEW AND HEARING SHALL BE
3 SERVED, WITHIN OR WITHOUT THIS COMMONWEALTH, BY ANY COMPETENT
4 ADULT IN THE SAME MANNER AS A CIVIL ACTION OR BY REGISTERED
5 MAIL, RETURN RECEIPT REQUESTED, TO THE LAST KNOWN ADDRESS OF THE
6 CONDEMNEE AND CONDEMNOR.

7 (B) PUBLIC POSTING.--IF SERVICE CANNOT BE MADE IN THE MANNER
8 SET FORTH IN SUBSECTION (A), THEN SERVICE SHALL BE MADE BY
9 POSTING A COPY OF THE NOTICE UPON A PUBLIC PART OF THE PROPERTY
10 AND BY PUBLICATION, AT THE COST OF THE CONDEMNOR, ONCE IN A
11 NEWSPAPER OF GENERAL CIRCULATION AND ONCE IN THE LEGAL
12 PUBLICATION, IF ANY, DESIGNATED BY RULE OR ORDER OF COURT FOR
13 PUBLICATION OF LEGAL NOTICES, PUBLISHED IN THE COUNTY.

14 (C) PROOF OF SERVICE.--PROOF OF SERVICE AND THE MANNER OF
15 SERVICE SHALL BE ATTACHED TO THE VIEWERS' REPORT.

16 § 506. ADDITIONAL CONDEMNESSES, MORTGAGEES AND INTERVENTION.

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

24 (B) NOTICE.--

25 (1) THE VIEWERS SHALL NOTIFY BY WRITTEN NOTICE ALL
26 PERSONS WHOSE NAMES ARE FURNISHED UNDER SUBSECTION (A) OF THE
27 PENDENCY OF THE PROCEEDINGS AND OF SUBSEQUENT HEARINGS.

28 (2) IF THESE PERSONS HAVE NOT RECEIVED 20 DAYS' NOTICE
29 OF THE HEARING, THE VIEWERS SHALL, UPON REQUEST, ADJOURN THE
30 HEARING TO ALLOW NOTICE.

1 (C) INTERVENTION.--THE COURT MAY PERMIT A MORTGAGEE,
2 JUDGMENT CREDITOR OR OTHER LIENHOLDER TO INTERVENE IN THE
3 PROCEEDINGS WHERE THE PERSON'S INTEREST IS NOT ADEQUATELY
4 PROTECTED, BUT A PERSON SHALL NOT BE A PARTY TO THE PROCEEDINGS
5 UNLESS THE PERSON HAS INTERVENED.

6 § 507. JOINT CLAIMS.

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

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

18 (C) SEPARATE HEARINGS.--CLAIMS FOR SPECIAL DAMAGES UNDER
19 SECTION 902 (RELATING TO MOVING AND RELATED EXPENSES OF
20 DISPLACED PERSONS) MAY BE HEARD OR TRIED SEPARATELY.

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

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

25 § 509. FURNISHING OF PLANS TO VIEWERS.

26 (A) DUTY OF CONDEMNOR.--THE CONDEMNOR SHALL PROVIDE THE
27 VIEWERS AT OR BEFORE THE VIEW WITH A PLAN SHOWING THE ENTIRE
28 PROPERTY INVOLVED, THE IMPROVEMENTS, THE EXTENT AND NATURE OF
29 THE CONDEMNATION AND ANY OTHER PHYSICAL DATA, INCLUDING GRADES,
30 AS MAY BE NECESSARY FOR THE PROPER DETERMINATION OF JUST

1 COMPENSATION.

2 (B) SUPPLEMENTAL PLANS.--IF, IN THE OPINION OF THE VIEWERS,
3 THE PLANS ARE INSUFFICIENT, THE VIEWERS MAY REQUIRE THE
4 SUBMISSION OF SUPPLEMENTAL PLANS.

5 (C) COPIES TO CONDEMNEE.--COPIES OF THE PLANS SHALL BE
6 FURNISHED AT THE SAME TIME, WITHOUT COST, TO THE CONDEMNEE UPON
7 WRITTEN REQUEST.

8 (D) CONDEMNOR TO PAY FOR CONDEMNEE COST.--IF THE CONDEMNOR
9 DOES NOT FURNISH A PLAN OR THE CONDEMNOR'S PLANS ARE
10 INSUFFICIENT, THE COURT, ON APPLICATION OF THE CONDEMNEE, MAY
11 CHARGE TO THE CONDEMNOR, AS COSTS, REASONABLE EXPENSES FOR PLANS
12 FURNISHED BY THE CONDEMNEE.

13 § 510. POWERS OF VIEWERS.

14 (A) PROCEEDINGS.--

15 (1) THE VIEWERS MAY ADJOURN THE PROCEEDINGS FROM TIME TO
16 TIME. UPON REQUEST OF THE VIEWERS OR A PARTY, THE COURT WHICH
17 APPOINTED THE VIEWERS SHALL ISSUE A SUBPOENA TO TESTIFY OR TO
18 PRODUCE BOOKS AND DOCUMENTS.

19 (2) ALL THE VIEWERS SHALL ACT, UNLESS PREVENTED BY
20 SICKNESS OR OTHER UNAVOIDABLE CAUSE, BUT A MAJORITY OF THE
21 VIEWERS MAY HEAR, DETERMINE, ACT UPON AND REPORT ALL MATTERS
22 RELATING TO THE VIEW FOR WHICH THEY WERE APPOINTED.

23 (B) CONSTRUCTION.--THE PROVISIONS OF THIS SECTION SHALL NOT
24 BE AFFECTED BY THE APPOINTMENT OF AN ALTERNATE VIEWER AS
25 PROVIDED FOR IN SECTION 504 (RELATING TO APPOINTMENT OF
26 VIEWERS).

27 § 511. ADMINISTRATIVE MATTERS FOR VIEWERS' HEARINGS.

28 (A) FACILITIES.--ALL VIEWERS' HEARINGS SHALL BE HELD
29 PUBLICLY IN A SUITABLE PLACE WITHIN THE COUNTY DESIGNATED BY THE
30 COURT.

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

§ 512. REPORT OF VIEWERS.

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

(1) THE DATE OF THEIR APPOINTMENT AS VIEWERS.

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

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

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

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

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

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

(8) WHETHER THERE ARE OTHER CLAIMANTS TO ANY INTEREST OR

ESTATE IN THE PROPERTY CONDEMNED AND THE VIEWERS'
DETERMINATION OF THE EXTENT, IF ANY, OF EACH INTEREST IN THE
PROPERTY AND IN THE AWARD.

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

(10) OTHER MATTERS THEY DEEM RELEVANT.

§ 513. DISAGREEMENT.

IF A MAJORITY OF THE VIEWERS DO NOT AGREE ON A DECISION,
THREE NEW VIEWERS SHALL BE APPOINTED BY THE COURT UPON
APPLICATION OF ANY INTERESTED PARTY.

§ 514. FILING OF REPORT OF VIEWERS.

(A) TIME PERIOD FOR FILING.--THE VIEWERS SHALL FILE THEIR
REPORT WITHIN 30 DAYS OF THEIR FINAL HEARING OR WITHIN 30 DAYS
FROM THE FILING OF THE TRANSCRIPTION OF THE STENOGRAPHIC NOTES
OF TESTIMONY. THE TRANSCRIPTION SHALL BE FILED WITHIN 30 DAYS OF
THE FINAL HEARING.

(B) COPY OF REPORT AND NOTICE TO PARTIES.--TEN DAYS BEFORE
THE FILING OF THEIR REPORT, THE VIEWERS SHALL MAIL A COPY OF THE
REPORT TO ALL PARTIES OR THEIR ATTORNEYS OF RECORD, WITH NOTICE
OF THE DATE OF THE INTENDED FILING AND THAT THE REPORT SHALL
BECOME FINAL UNLESS AN APPEAL IS FILED WITHIN 30 DAYS FROM THE
DATE THE REPORT IS FILED.

(C) CORRECTION OF ERRORS.--PRIOR TO THE FILING OF THEIR
REPORT, THE VIEWERS MAY CORRECT ANY ERRORS IN THE REPORT AND
GIVE NOTICE TO THE PERSONS AFFECTED.

(D) OTHER ENTITIES TO RECEIVE REPORT.--A COPY OF THE REPORT,
WHEN FILED, SHALL ALSO BE MAILED TO ALL MORTGAGEES OF RECORD AND
OTHER LIENHOLDERS OF RECORD.

§ 515. REPORTS.

(A) MULTIPLE PROPERTIES OR CLAIMS.--THE VIEWERS MAY INCLUDE

1 IN ONE REPORT ONE OR MORE PROPERTIES OR CLAIMS UNDER SECTION 902
2 (RELATING TO MOVING AND RELATED EXPENSES OF DISPLACED PERSONS)
3 REFERRED TO THEM UNDER THE SAME OR SEPARATE PETITIONS IF THE
4 PROPERTIES ARE INCLUDED IN THE SAME DECLARATION OF TAKING.

5 (B) EXPENSES AND DAMAGES.--THE VIEWERS MAY FILE A SEPARATE
6 REPORT FOR EXPENSES AND DAMAGES UNDER SECTION 902.

7 (C) FINALITY.--EACH REPORT SHALL BE FINAL AS TO THE PROPERTY
8 OR PROPERTIES INCLUDED AND SUBJECT TO SEPARATE APPEAL.

9 § 516. RIGHT OF APPEAL.

10 (A) EXTENT OF RIGHT.--

11 (1) ANY PARTY AGGRIEVED BY THE DECISION OF THE VIEWERS
12 MAY APPEAL TO THE COURT. THE APPEAL SHALL RAISE ALL
13 OBJECTIONS OF LAW OR FACT TO THE VIEWERS' REPORT.

14 (2) THE APPEAL SHALL BE SIGNED BY THE APPELLANT OR AN
15 ATTORNEY OR AGENT, AND NO VERIFICATION SHALL BE REQUIRED.

16 (3) ANY AWARD OF DAMAGES OR ASSESSMENT OF BENEFITS, AS
17 THE CASE MAY BE, AS TO WHICH NO APPEAL IS TAKEN SHALL BECOME
18 FINAL AS OF COURSE AND SHALL CONSTITUTE A FINAL JUDGMENT.

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

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

27 (D) WITHDRAWAL.--PRIOR TO THE BEGINNING OF TESTIMONY, ANY
28 PARTY MAY WITHDRAW ITS APPEAL WITHOUT THE CONSENT OF THE OTHER
29 PARTIES.

30 § 517. APPEALS.

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

(1) THE NAME OF APPELLANT AND APPELLEE.

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

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

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

(5) A DEMAND FOR JURY TRIAL, IF DESIRED. IF THE
APPELLANT DESIRES A JURY TRIAL, THE APPELLANT SHALL AT THE
TIME OF FILING THE APPEAL ENDORSE THE APPEAL OR FILE
SEPARATELY A WRITTEN DEMAND FOR JURY TRIAL, SIGNED BY THE
APPELLANT OR COUNSEL.

(B) JURY TRIAL.--

(1) IF NO DEMAND FOR JURY TRIAL IS MADE BY THE
APPELLANT, ANY OTHER PARTY MAY FILE A WRITTEN DEMAND FOR JURY
TRIAL WITHIN 15 DAYS AFTER BEING SERVED WITH A COPY OF THE
APPEAL.

(2) IF NO PARTY MAKES A DEMAND FOR A JURY TRIAL AS
PROVIDED IN THIS SECTION, THE RIGHT TO JURY TRIAL SHALL BE
DEEMED TO HAVE BEEN WAIVED, AND THE COURT SHALL TRY THE CASE
WITHOUT A JURY.

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

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

§ 518. DISPOSITION OF APPEAL.

AN APPEAL SHALL BE DISPOSED AS FOLLOWS:

1 (1) ALL OBJECTIONS, OTHER THAN TO THE AMOUNT OF THE
2 AWARD, RAISED BY THE APPEAL SHALL BE DETERMINED BY THE COURT
3 PRELIMINARILY.

4 (2) THE COURT MAY CONFIRM, MODIFY OR CHANGE THE REPORT
5 OR REFER IT BACK TO THE SAME OR OTHER VIEWERS. A DECREE
6 CONFIRMING, MODIFYING OR CHANGING THE REPORT CONSTITUTES A
7 FINAL ORDER.

8 (3) THE AMOUNT OF DAMAGES SHALL BE DETERMINED BY THE
9 COURT UNLESS A JURY TRIAL HAS BEEN DEMANDED.

10 (4) AT THE TRIAL OF THE CASE, THE CONDEMNEE SHALL BE THE
11 PLAINTIFF AND THE CONDEMNOR SHALL BE THE DEFENDANT.

12 § 519. ALLOCATION OF DAMAGES.

13 (A) SEVERANCE DAMAGES.--UPON APPEAL FROM AN AWARD OF
14 VIEWERS, THE COURT, UPON THE REQUEST OF THE PLAINTIFF, SHALL,
15 AFTER THE JURY OR THE COURT, IF THE TRIAL IS WITHOUT JURY, HAS
16 RETURNED ITS GENERAL VERDICT, MAKE A SPECIFIC FINDING AND
17 ALLOCATION OF THE AMOUNT OF THE GENERAL VERDICT ATTRIBUTABLE TO
18 SEVERANCE DAMAGES TO THE PART OF THE PROPERTY NOT TAKEN.

19 (B) OTHER DAMAGES.--THE JURY, OR THE COURT IN A TRIAL
20 WITHOUT A JURY, SHALL MAKE SPECIFIC FINDINGS AS TO THE PORTION
21 OF THE VERDICT ALLOCATED TO:

22 (1) GENERAL DAMAGES;

23 (2) MOVING AND REMOVAL EXPENSES;

24 (3) BUSINESS DISLOCATION DAMAGES; AND

25 (4) OTHER ITEMS OF SPECIAL DAMAGES AUTHORIZED BY THIS
26 TITLE;

27 EXCEPT REASONABLE APPRAISAL, ATTORNEY AND ENGINEERING FEES
28 RECOVERABLE UNDER SECTIONS 306 (RELATING TO PRELIMINARY
29 OBJECTIONS), 308 (RELATING TO REVOCATION OF CONDEMNATION
30 PROCEEDINGS), 709 (RELATING TO CONDEMNEE'S COSTS WHERE NO

DECLARATION OF TAKING FILED) AND 710 (RELATING TO LIMITED REIMBURSEMENT OF APPRAISAL, ATTORNEY AND ENGINEERING FEES), WHICH SHALL BE DETERMINED BY THE COURT IN AN APPROPRIATE CASE.

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

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

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

§ 521. LIENS AND DISTRIBUTION OF DAMAGES.

(A) LIENS.--

(1) DAMAGES PAYABLE TO A CONDEMNEE UNDER SECTIONS 701 (RELATING TO JUST COMPENSATION; OTHER DAMAGES) THROUGH 707 (RELATING TO REMOVAL OF MACHINERY, EQUIPMENT OR FIXTURES), 713 (RELATING TO DELAY COMPENSATION), 714 (RELATING TO CONSEQUENTIAL DAMAGES), 715 (RELATING TO DAMAGES FOR VACATION OF ROADS) AND 902(B)(1) AND (2) (RELATING TO MOVING AND RELATED EXPENSES OF DISPLACED PERSONS) SHALL BE SUBJECT TO A LIEN FOR ALL TAXES AND MUNICIPAL CLAIMS ASSESSED AGAINST THE PROPERTY AND TO ALL MORTGAGES, JUDGMENTS AND OTHER LIENS OF RECORD AGAINST THE PROPERTY FOR WHICH THE PARTICULAR DAMAGES ARE PAYABLE, EXISTING AT THE DATE OF THE FILING OF THE

1 DECLARATION OF TAKING.

2 (2) THE LIENS SHALL BE PAID OUT OF THE DAMAGES IN ORDER
3 OF PRIORITY BEFORE ANY PAYMENT TO THE CONDEMNEE, UNLESS
4 RELEASED.

5 (3) IN THE CASE OF A PARTIAL TAKING OR OF DAMAGES UNDER
6 SECTIONS 714 AND 715, THE LIENHOLDER SHALL BE ENTITLED ONLY
7 TO AN EQUITABLE PRO RATA SHARE OF THE DAMAGES LIENABLE UNDER
8 THIS SECTION.

9 (B) DISTRIBUTION OF DAMAGES.--

10 (1) THE CONDEMNOR SHALL DISTRIBUTE THE DAMAGES PROPERLY.
11 IF THE CONDEMNOR IS UNABLE TO DETERMINE PROPER DISTRIBUTION
12 OF THE DAMAGES, IT MAY, WITHOUT PAYMENT INTO COURT, PETITION
13 THE COURT TO DISTRIBUTE THE DAMAGES AND SHALL FURNISH THE
14 COURT WITH A SCHEDULE OF PROPOSED DISTRIBUTION.

15 (2) NOTICE OF THE FILING OF THE PETITION AND SCHEDULE OF
16 PROPOSED DISTRIBUTION SHALL BE GIVEN TO ALL CONDEMNEES,
17 MORTGAGEES, JUDGMENT CREDITORS AND OTHER LIENHOLDERS, AS
18 SHOWN IN THE PROPOSED SCHEDULE, IN ANY MANNER AS THE COURT
19 MAY DIRECT BY GENERAL RULE OR SPECIAL ORDER.

20 (3) THE COURT MAY HEAR THE MATTER OR MAY APPOINT A
21 MASTER TO HEAR AND REPORT OR MAY ORDER ANY ISSUE TRIED BY THE
22 COURT AND JURY AS MAY APPEAR PROPER UNDER ALL THE
23 CIRCUMSTANCES.

24 (4) THE COURT SHALL THEN ENTER AN ORDER OF DISTRIBUTION
25 OF THE FUND.

26 § 522. PAYMENT INTO COURT AND DISTRIBUTION.

27 (A) PAYMENT INTO COURT.--

28 (1) UPON REFUSAL TO ACCEPT PAYMENT OF THE DAMAGES OR OF
29 THE ESTIMATED JUST COMPENSATION UNDER SECTION 307 (RELATING
30 TO POSSESSION, RIGHT OF ENTRY AND PAYMENT OF COMPENSATION) OR

1 IF THE PARTY ENTITLED THERETO CANNOT BE FOUND OR IF FOR ANY
2 OTHER REASON THE AMOUNT CANNOT BE PAID TO THE PARTY ENTITLED
3 THERETO, THE COURT UPON PETITION OF THE CONDEMNOR, WHICH
4 SHALL INCLUDE A SCHEDULE OF PROPOSED DISTRIBUTION, MAY DIRECT
5 PAYMENT AND COSTS INTO COURT OR AS THE COURT MAY DIRECT IN
6 FULL SATISFACTION.

7 (2) THE CONDEMNOR SHALL GIVE 20 DAYS' NOTICE OF THE
8 PRESENTATION OF THE PETITION, INCLUDING A COPY OF THE
9 SCHEDULE OF THE PROPOSED DISTRIBUTION, TO ALL PARTIES IN
10 INTEREST KNOWN TO THE CONDEMNOR IN ANY MANNER AS THE COURT
11 MAY DIRECT BY GENERAL RULE OR SPECIAL ORDER.

12 (3) IF THE COURT IS SATISFIED IN A PARTICULAR CASE THAT
13 THE CONDEMNOR FAILED TO USE REASONABLE DILIGENCE IN GIVING
14 NOTICE, THE COURT MAY, UPON PETITION OF ANY PARTY IN INTEREST
15 ADVERSELY AFFECTED BY THE FAILURE TO GIVE NOTICE, ORDER THAT
16 COMPENSATION FOR DELAY IN PAYMENT BE AWARDED TO THE PARTY FOR
17 THE PERIOD AFTER DEPOSIT IN COURT BY THE CONDEMNOR UNDER THIS
18 SECTION UNTIL THE TIME THE PARTY IN INTEREST HAS RECEIVED A
19 DISTRIBUTION OF FUNDS UNDER THIS SECTION.

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

29 CHAPTER 7

30 JUST COMPENSATION AND MEASURE OF DAMAGES

1 SEC.
2 701. JUST COMPENSATION; OTHER DAMAGES.
3 702. MEASURE OF DAMAGES.
4 703. FAIR MARKET VALUE.
5 704. EFFECT OF IMMINENCE OF CONDEMNATION.
6 705. CONTIGUOUS TRACTS AND UNITY OF USE.
7 706. EFFECT OF CONDEMNATION USE ON AFTER VALUE.
8 707. REMOVAL OF MACHINERY, EQUIPMENT OR FIXTURES.
9 708. EXPENSES INCIDENTAL TO TRANSFER OF TITLE.
10 709. CONDEMNEE'S COSTS WHERE NO DECLARATION OF TAKING FILED.
11 710. LIMITED REIMBURSEMENT OF APPRAISAL, ATTORNEY AND
12 ENGINEERING FEES.
13 710.1. DEFRAYING ATTORNEY FEES IN CERTAIN CASES.
14 711. PAYMENT ON ACCOUNT OF INCREASED MORTGAGE COSTS.
15 712. LOSS OF RENTALS BECAUSE OF IMMINENCE OF CONDEMNATION.
16 713. DELAY COMPENSATION.
17 714. CONSEQUENTIAL DAMAGES.
18 715. DAMAGES FOR VACATION OF ROADS.
19 716. ATTEMPTED AVOIDANCE OF MONETARY JUST COMPENSATION.

20 § 701. JUST COMPENSATION; OTHER DAMAGES.

21 A CONDEMNEE SHALL BE ENTITLED TO JUST COMPENSATION FOR THE
22 TAKING, INJURY OR DESTRUCTION OF THE CONDEMNEE'S PROPERTY,
23 DETERMINED AS SET FORTH IN THIS CHAPTER. OTHER DAMAGES SHALL
24 ALSO BE PAID OR AWARDED AS PROVIDED IN THIS TITLE.

25 § 702. MEASURE OF DAMAGES.

26 (A) JUST COMPENSATION.--JUST COMPENSATION SHALL CONSIST OF
27 THE DIFFERENCE BETWEEN THE FAIR MARKET VALUE OF THE CONDEMNEE'S
28 ENTIRE PROPERTY INTEREST IMMEDIATELY BEFORE THE CONDEMNATION AND
29 AS UNAFFECTED BY THE CONDEMNATION AND THE FAIR MARKET VALUE OF
30 THE PROPERTY INTEREST REMAINING IMMEDIATELY AFTER THE

1 CONDEMNATION AND AS AFFECTED BY THE CONDEMNATION.

2 (B) URBAN DEVELOPMENT OR REDEVELOPMENT CONDEMNATION.--IN THE
3 CASE OF THE CONDEMNATION OF PROPERTY IN CONNECTION WITH ANY
4 URBAN DEVELOPMENT OR REDEVELOPMENT PROJECT, WHICH PROPERTY IS
5 DAMAGED BY SUBSIDENCE DUE TO FAILURE OF SURFACE SUPPORT
6 RESULTING FROM THE EXISTENCE OF MINE TUNNELS OR PASSAGEWAYS
7 UNDER THE PROPERTY OR BY REASON OF FIRES OCCURRING IN MINE
8 TUNNELS OR PASSAGEWAYS OR OF BURNING COAL REFUSE BANKS, THE
9 DAMAGE RESULTING FROM THE SUBSIDENCE OR UNDERGROUND FIRES OR
10 BURNING COAL REFUSE BANKS SHALL BE EXCLUDED IN DETERMINING THE
11 FAIR MARKET VALUE OF THE CONDEMNEE'S ENTIRE PROPERTY INTEREST
12 IMMEDIATELY BEFORE THE CONDEMNATION.

13 (C) VALUE OF PROPERTY DAMAGED BY NATURAL DISASTER.--

14 (1) IN THE CASE OF THE CONDEMNATION OF PROPERTY IN
15 CONNECTION WITH ANY PROGRAM OR PROJECT WHICH PROPERTY IS
16 DAMAGED BY ANY NATURAL DISASTER, THE DAMAGE RESULTING FROM
17 THE NATURAL DISASTER SHALL BE EXCLUDED IN DETERMINING FAIR
18 MARKET VALUE OF THE CONDEMNEE'S ENTIRE PROPERTY INTEREST
19 IMMEDIATELY BEFORE THE CONDEMNATION.

20 (2) THIS SUBSECTION APPLIES ONLY WHERE THE DAMAGE
21 RESULTING FROM THE NATURAL DISASTER HAS OCCURRED WITHIN FIVE
22 YEARS PRIOR TO THE INITIATION OF NEGOTIATIONS FOR OR NOTICE
23 OF INTENT TO ACQUIRE OR ORDER TO VACATE THE PROPERTY AND
24 DURING THE OWNERSHIP OF THE PROPERTY BY THE CONDEMNEE. THE
25 DAMAGE TO BE EXCLUDED SHALL INCLUDE ONLY ACTUAL PHYSICAL
26 DAMAGE TO THE PROPERTY FOR WHICH THE CONDEMNEE HAS NOT
27 RECEIVED ANY COMPENSATION OR REIMBURSEMENT.

28 § 703. FAIR MARKET VALUE.

29 FAIR MARKET VALUE SHALL BE THE PRICE WHICH WOULD BE AGREED TO
30 BY A WILLING AND INFORMED SELLER AND BUYER, TAKING INTO

1 CONSIDERATION, BUT NOT LIMITED TO, THE FOLLOWING FACTORS:

2 (1) THE PRESENT USE OF THE PROPERTY AND ITS VALUE FOR
3 THAT USE.

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

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

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

10 § 704. EFFECT OF IMMINENCE OF CONDEMNATION.

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

17 § 705. CONTIGUOUS TRACTS AND UNITY OF USE.

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

24 § 706. EFFECT OF CONDEMNATION USE ON AFTER VALUE.

25 (A) GENERAL RULE.--IN DETERMINING THE FAIR MARKET VALUE OF
26 THE REMAINING PROPERTY AFTER A PARTIAL TAKING, CONSIDERATION
27 SHALL BE GIVEN TO THE USE TO WHICH THE PROPERTY CONDEMNED IS TO
28 BE PUT AND THE DAMAGES OR BENEFITS SPECIALLY AFFECTING THE
29 REMAINING PROPERTY DUE TO ITS PROXIMITY TO THE IMPROVEMENT FOR
30 WHICH THE PROPERTY WAS TAKEN.

1 (B) FUTURE DAMAGES AND GENERAL BENEFITS.--FUTURE DAMAGES AND
2 GENERAL BENEFITS WHICH WILL AFFECT THE ENTIRE COMMUNITY BEYOND
3 THE PROPERTIES DIRECTLY ABUTTING THE PROPERTY TAKEN SHALL NOT BE
4 CONSIDERED IN ARRIVING AT THE AFTER VALUE.

5 (C) SPECIAL BENEFITS.--SPECIAL BENEFITS TO THE REMAINING
6 PROPERTY SHALL IN NO EVENT EXCEED THE TOTAL DAMAGES, EXCEPT IN
7 CASES WHERE THE CONDEMNOR IS AUTHORIZED UNDER EXISTING LAW TO
8 MAKE SPECIAL ASSESSMENTS FOR BENEFITS.

9 (D) PARTIAL TAKING.--A PARTIAL TAKING SHALL NOT EXTINGUISH A
10 NONCONFORMING USE UNLESS ALL OR A SUBSTANTIAL PORTION OF THE
11 IMPROVEMENTS ON THE PROPERTY ARE WITHIN THE AREA OF THE PROPERTY
12 TAKEN.

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

14 (A) NOTICE TO CONDEMNEE.--IN THE EVENT THE CONDEMNOR DOES
15 NOT REQUIRE FOR ITS USE MACHINERY, EQUIPMENT OR FIXTURES FORMING
16 PART OF THE REAL ESTATE, IT SHALL SO NOTIFY THE CONDEMNEE.

17 (B) CONDEMNEE ELECTION.--

18 (1) THE CONDEMNEE MAY WITHIN 30 DAYS OF THE NOTICE ELECT
19 TO REMOVE THE MACHINERY, EQUIPMENT OR FIXTURES UNLESS THE
20 TIME IS EXTENDED BY THE CONDEMNOR.

21 (2) IF THE CONDEMNEE SO ELECTS, THE DAMAGES SHALL BE
22 REDUCED BY THE FAIR MARKET VALUE OF THE MACHINERY, EQUIPMENT
23 OR FIXTURES SEVERED FROM THE REAL ESTATE.

24 § 708. EXPENSES INCIDENTAL TO TRANSFER OF TITLE.

25 AN ACQUIRING AGENCY SHALL, ON THE DATE OF PAYMENT OF THE
26 PURCHASE PRICE OF AMICABLY ACQUIRED REAL PROPERTY OR OF PAYMENT
27 OR TENDER OF ESTIMATED JUST COMPENSATION IN A CONDEMNATION
28 PROCEEDING TO ACQUIRE REAL PROPERTY, WHICHEVER IS EARLIER OR AS
29 SOON AS IS PRACTICABLE, REIMBURSE THE OWNER FOR EXPENSES
30 NECESSARILY INCURRED FOR:

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

4 (2) PENALTY COSTS FOR PREPAYMENT FOR ANY PREEXISTING
5 RECORDED MORTGAGE ENTERED INTO IN GOOD FAITH ENCUMBERING THE
6 REAL PROPERTY.

7 (3) THE PRO RATA PORTION OF REAL PROPERTY TAXES PAID
8 WHICH ARE ALLOCABLE TO A PERIOD SUBSEQUENT TO THE DATE OF
9 VESTING TITLE IN THE ACQUIRING AGENCY OR THE EFFECTIVE DATE
10 OF POSSESSION OF THE REAL PROPERTY BY THE ACQUIRING AGENCY,
11 WHICHEVER IS EARLIER.

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

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

17 WHERE PROCEEDINGS ARE INSTITUTED BY A CONDEMNEE UNDER SECTION
18 502(C) (RELATING TO PETITION FOR APPOINTMENT OF VIEWERS), A
19 JUDGMENT AWARDED COMPENSATION TO THE CONDEMNEE FOR THE TAKING
20 OF PROPERTY SHALL INCLUDE REIMBURSEMENT OF REASONABLE APPRAISAL,
21 ATTORNEY AND ENGINEERING FEES AND OTHER COSTS AND EXPENSES
22 ACTUALLY INCURRED.

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

25 (A) GENERAL RULE.--THE OWNER OF ANY RIGHT, TITLE OR INTEREST
26 IN REAL PROPERTY ACQUIRED OR INJURED BY AN ACQUIRING AGENCY, WHO
27 IS NOT ELIGIBLE FOR REIMBURSEMENT OF FEES UNDER SECTION 306(G)
28 (RELATING TO PRELIMINARY OBJECTIONS), 308(E) (RELATING TO
29 REVOCATION OF CONDEMNATION PROCEEDINGS) OR 709 (RELATING TO
30 CONDEMNEE'S COSTS WHERE NO DECLARATION OF TAKING FILED), SHALL

1 BE REIMBURSED IN AN AMOUNT NOT TO EXCEED \$3,000 AS A PAYMENT
2 TOWARD REASONABLE EXPENSES ACTUALLY INCURRED FOR APPRAISAL,
3 ATTORNEY AND ENGINEERING FEES.

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

8 § 710.1. DEFRAYING ATTORNEY FEES IN CERTAIN CASES.

9 AT THE TIME OF THE ENTRY OF A FINAL AWARD OR JUDGMENT OF JUST
10 COMPENSATION, UNLESS REASONABLE EXPENSES INCURRED FOR APPRAISAL,
11 ATTORNEY AND ENGINEERING FEES ARE PAYABLE UNDER SECTION 308
12 (RELATING TO REVOCATION OF CONDEMNATION PROCEEDINGS) OR 709
13 (RELATING TO CONDEMNEE'S COSTS WHERE NO DECLARATION OF TAKING
14 FILED), IF THE AMOUNT OF THE AWARD OR JUDGMENT IS GREATER THAN
15 AN AMOUNT CALCULATED BY MULTIPLYING THE AMOUNT OF ESTIMATED JUST
16 COMPENSATION PAID OR TENDERED TO THE CONDEMNEE AS REQUIRED BY
17 SECTION 307 (RELATING TO POSSESSION, RIGHT OF ENTRY AND PAYMENT
18 OF COMPENSATION) OR PAID INTO COURT AS PROVIDED BY SECTION 522
19 (RELATING TO PAYMENT INTO COURT AND DISTRIBUTION) MULTIPLIED BY
20 1.25, BEFORE CALCULATING DELAY COMPENSATION PAYABLE, IF ANY,
21 PURSUANT TO SECTION 711 (RELATING TO PAYMENT ON ACCOUNT OF
22 INCREASED MORTGAGE COSTS), THEN, TO DEFRAY THE CONDEMNEE'S COST
23 OF LITIGATION, THE AMOUNT TO BE ENTERED SHALL BE ENHANCED BY THE
24 DIFFERENCE BETWEEN:

25 (1) THE REASONABLE ATTORNEY FEES INCURRED DURING THE
26 REPRESENTATION PAID OR OWED BY THE CONDEMNEE; AND

27 (2) THE AMOUNT ACTUALLY PAID TO THE CONDEMNEE FOR
28 ATTORNEY FEES UNDER SECTION 710 (RELATING TO LIMITED
29 REIMBURSEMENT OF APPRAISAL, ATTORNEY AND ENGINEER FEES).

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

1 (A) REIMBURSEMENT OF OWNER.--WHENEVER THE ACQUISITION OF
2 PROPERTY BY AN ACQUIRING AGENCY RESULTS IN THE TERMINATION OF AN
3 INSTALLMENT PURCHASE CONTRACT, MORTGAGE OR OTHER EVIDENCE OF
4 DEBT ON THE ACQUIRED PROPERTY, REQUIRING THE LEGAL OR EQUITABLE
5 OWNER TO ENTER INTO ANOTHER INSTALLMENT PURCHASE CONTRACT,
6 MORTGAGE OR OTHER EVIDENCE OF DEBT ON THE PROPERTY PURCHASED FOR
7 THE SAME USE AS THE ACQUIRED PROPERTY, A LEGAL OR EQUITABLE
8 OWNER WHO DOES NOT QUALIFY FOR A PAYMENT UNDER SECTION 903(A)(2)
9 (RELATING TO REPLACEMENT HOUSING FOR HOMEOWNERS) SHALL BE
10 COMPENSATED FOR ANY INCREASED INTEREST AND OTHER DEBT SERVICE
11 COSTS WHICH THE OWNER IS REQUIRED TO PAY FOR FINANCING THE
12 ACQUISITION OF THE REPLACEMENT PROPERTY.

13 (B) DETERMINATION OF AMOUNT.--

14 (1) COMPENSATION FOR ANY INCREASED INTEREST AND OTHER
15 DEBT SERVICE COSTS SHALL BE EQUAL TO THE EXCESS IN THE
16 AGGREGATE INTEREST AND OTHER DEBT SERVICE COSTS OF THAT
17 AMOUNT ON THE PRINCIPAL OF THE INSTALLMENT PURCHASE CONTRACT,
18 MORTGAGE OR OTHER EVIDENCE OF DEBT ON THE REPLACEMENT
19 PROPERTY WHICH IS EQUAL TO THE UNPAID BALANCE OF THE
20 INSTALLMENT PURCHASE CONTRACT, MORTGAGE OR OTHER EVIDENCE OF
21 DEBT ON THE ACQUIRED PROPERTY OVER THE REMAINING TERM OF THE
22 INSTALLMENT PURCHASE CONTRACT, MORTGAGE OR OTHER EVIDENCE OF
23 DEBT ON THE ACQUIRED PROPERTY REDUCED TO PRESENT WORTH.

24 (2) THE DISCOUNT RATE TO BE USED IN REDUCING TO PRESENT
25 WORTH SHALL BE THE PREVAILING INTEREST RATE PAID ON SAVINGS
26 DEPOSITS BY COMMERCIAL BANKS IN THE GENERAL AREA IN WHICH THE
27 REPLACEMENT PROPERTY IS LOCATED.

28 (3) THE AMOUNT SHALL BE PAID ONLY IF THE ACQUIRED
29 PROPERTY WAS SUBJECT TO AN INSTALLMENT PURCHASE CONTRACT OR
30 ENCUMBERED BY A BONA FIDE MORTGAGE OR OTHER EVIDENCE OF DEBT

1 SECURED BY THE PROPERTY WHICH WAS A VALID LIEN ON THE
2 PROPERTY FOR NOT LESS THAN 180 DAYS PRIOR TO THE INITIATION
3 OF NEGOTIATIONS FOR THE ACQUISITION OF THE PROPERTY.

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

5 (A) GENERAL RULE.--THE CONDEMNEE SHALL BE ENTITLED TO
6 RECEIVE AS SPECIAL DAMAGES COMPENSATION FOR ANY LOSS, SUFFERED
7 PRIOR TO THE DATE OF TAKING, CAUSED BY A REDUCTION OF INCOME
8 FROM RENTALS WHICH THE CONDEMNEE ESTABLISHES WAS SUBSTANTIALLY
9 DUE TO THE GENERAL KNOWLEDGE OF THE IMMINENCE OF CONDEMNATION,
10 OTHER THAN THAT DUE TO PHYSICAL DETERIORATION OF THE PROPERTY
11 WITHIN THE REASONABLE CONTROL OF THE CONDEMNEE.

12 (B) APPLICABILITY.--THIS SECTION APPLIES ONLY TO LOSSES OF
13 RENTAL INCOME SUFFERED FOLLOWING A 60-DAY PERIOD SUBSEQUENT TO
14 WRITTEN NOTICE FROM THE CONDEMNEE TO THE CONDEMNOR THAT LOSSES
15 OF RENTAL INCOME ARE BEING SUFFERED. TOTAL DAMAGES UNDER THIS
16 SECTION SHALL NOT EXCEED \$24,000.

17 § 713. DELAY COMPENSATION.

18 (A) GENERAL RULE.--COMPENSATION FOR DELAY IN PAYMENT SHALL
19 BE PAID AT AN ANNUAL RATE EQUAL TO THE PRIME RATE AS LISTED IN
20 THE FIRST EDITION OF THE WALL STREET JOURNAL PUBLISHED IN THE
21 YEAR, PLUS 1%, NOT COMPOUNDED, FROM:

22 (1) THE DATE OF RELINQUISHMENT OF POSSESSION OF THE
23 CONDEMNED PROPERTY BY THE CONDEMNEE; OR

24 (2) IF POSSESSION IS NOT REQUIRED TO EFFECTUATE
25 CONDEMNATION, THE DATE OF CONDEMNATION.

26 (B) EXCLUSION.--

27 (1) NO COMPENSATION FOR DELAY SHALL BE PAYABLE WITH
28 RESPECT TO FUNDS PAID ON ACCOUNT OR BY DEPOSIT IN COURT AFTER
29 THE DATE OF THE PAYMENT OR DEPOSIT.

30 (2) DURING THE PERIOD THE CONDEMNEE REMAINS IN

1 POSSESSION AFTER THE CONDEMNATION:

2 (I) THE CONDEMNEE SHALL NOT BE ENTITLED TO
3 COMPENSATION FOR DELAY IN PAYMENT; AND

4 (II) THE CONDEMNOR SHALL NOT BE ENTITLED TO RENT OR
5 OTHER CHARGES FOR USE AND OCCUPANCY OF THE CONDEMNED
6 PROPERTY BY THE CONDEMNEE.

7 (C) AWARD OR JUDGMENT.--COMPENSATION FOR DELAY SHALL NOT BE
8 INCLUDED BY THE VIEWERS OR THE COURT OR JURY ON APPEAL AS PART
9 OF THE AWARD OR VERDICT BUT SHALL, AT THE TIME OF PAYMENT OF THE
10 AWARD OR JUDGMENT, BE CALCULATED UNDER SUBSECTION (A) AND ADDED
11 TO THE AWARD OR JUDGMENT. THERE SHALL BE NO FURTHER OR
12 ADDITIONAL PAYMENT OF INTEREST ON THE AWARD OR VERDICT.

13 § 714. CONSEQUENTIAL DAMAGES.

14 ALL CONDEMNORS, INCLUDING THE COMMONWEALTH, SHALL BE LIABLE
15 FOR DAMAGES TO PROPERTY ABUTTING THE AREA OF AN IMPROVEMENT
16 RESULTING FROM CHANGE OF GRADE OF A ROAD OR HIGHWAY, PERMANENT
17 INTERFERENCE WITH ACCESS OR INJURY TO SURFACE SUPPORT, WHETHER
18 OR NOT ANY PROPERTY IS TAKEN.

19 § 715. DAMAGES FOR VACATION OF ROADS.

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

23 § 716. ATTEMPTED AVOIDANCE OF MONETARY JUST COMPENSATION.

24 WHERE A CONDEMNOR ATTEMPTS TO AVOID THE PAYMENT OF MONETARY
25 JUST COMPENSATION TO WHICH THE CONDEMNEE OTHERWISE WOULD BE
26 ENTITLED BY USE OF A SUBSTITUTE FOR MONETARY COMPENSATION AND
27 THE CONDEMNEE INCURS EXPENSES, INCLUDING APPRAISAL, ATTORNEY AND
28 ENGINEERING FEES, IN SECURING AN ADJUDICATION THAT THE
29 SUBSTITUTE IS NOT ADEQUATE, THE CONDEMNEE SHALL BE REIMBURSED BY
30 THE CONDEMNOR FOR ALL THESE EXPENSES INCURRED.

CHAPTER 9

SPECIAL DAMAGES FOR DISPLACEMENT

SEC.

901. DEFINITIONS.

902. MOVING AND RELATED EXPENSES OF DISPLACED PERSONS.

903. REPLACEMENT HOUSING FOR HOMEOWNERS.

904. REPLACEMENT HOUSING FOR TENANTS AND OTHERS.

905. HOUSING REPLACEMENT AUTHORIZATION.

906. REGULATIONS.

907. PAYMENTS NOT TO BE CONSIDERED AS INCOME OR RESOURCES.

§ 901. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

"ACQUIRING AGENCY." THE TERM INCLUDES AN AGENCY OR PERSON THAT IS CARRYING OUT A PROGRAM OR PROJECT TO THE EXTENT THAT THE AGENCY OR PERSON CAUSES A PERSON TO BECOME A DISPLACED PERSON.

§ 902. MOVING AND RELATED EXPENSES OF DISPLACED PERSONS.

(A) REASONABLE EXPENSES INCURRED.--

(1) A DISPLACED PERSON SHALL BE REIMBURSED FOR REASONABLE EXPENSES INCURRED IN MOVING THE DISPLACED PERSON AND THE PERSON'S FAMILY AND FOR THE REMOVAL, TRANSPORTATION AND REINSTALLATION OF PERSONAL PROPERTY.

(I) RECEIPTS SHALL BE PRIMA FACIE EVIDENCE OF INCURRED REASONABLE MOVING EXPENSES.

(II) ANY DISPLACED PERSON WHO IS DISPLACED FROM A DWELLING MAY ELECT TO RECEIVE, IN LIEU OF REIMBURSEMENT OF INCURRED MOVING EXPENSES, A MOVING EXPENSE AND DISLOCATION ALLOWANCE DETERMINED ACCORDING TO A SCHEDULE ESTABLISHED BY THE ACQUIRING AGENCY.

1 (2) AS USED IN THIS SUBSECTION, THE FOLLOWING WORDS AND
2 PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
3 PARAGRAPH:

4 "DISPLACED PERSON." INCLUDES A PERSON WHO MOVES FROM
5 REAL PROPERTY OR MOVES PERSONAL PROPERTY:

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

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

16 (B) DAMAGES FOR DISLOCATION OF BUSINESS OR FARM OPERATION.--
17 A DISPLACED PERSON WHO IS DISPLACED FROM A PLACE OF BUSINESS OR
18 FROM A FARM OPERATION SHALL BE ENTITLED, IN ADDITION TO ANY
19 PAYMENT RECEIVED UNDER SUBSECTION (A), TO DAMAGES FOR
20 DISLOCATION OF BUSINESS OR FARM OPERATION AS FOLLOWS:

21 (1) DAMAGES EQUAL TO THE VALUE IN PLACE OF THE PERSONAL
22 PROPERTY WHICH:

23 (I) IS NOT MOVED BECAUSE OF THE DISCONTINUANCE OF
24 THE BUSINESS OR FARM OPERATION OR THE UNAVAILABILITY OF A
25 COMPARABLE SITE FOR RELOCATION; OR

26 (II) CANNOT BE MOVED WITHOUT SUBSTANTIALLY
27 DESTROYING OR DIMINISHING ITS UTILITY IN THE RELOCATED
28 BUSINESS OR FARM OPERATION.

29 (2) (I) IN LIEU OF THE DAMAGES PROVIDED IN PARAGRAPH

30 (1), AT THE OPTION OF THE DISPLACED PERSON, AN AMOUNT NOT

1 TO EXCEED \$12,000 TO BE DETERMINED BY TAKING 50% OF THE
2 DIFFERENCE, IF ANY, BETWEEN THE ORIGINAL COST OF THE
3 PERSONAL PROPERTY TO THE DISPLACED PERSON OR THE
4 REPLACEMENT COST OF EQUIVALENT PROPERTY AT THE TIME OF
5 SALE, WHICHEVER IS LOWER, AND THE NET PROCEEDS OBTAINED
6 BY THE DISPLACED PERSON AT A COMMERCIALY REASONABLE
7 PRIVATE OR PUBLIC SALE.

8 (II) IF THIS OPTION IS SELECTED, THE DISPLACED
9 PERSON SHALL GIVE THE ACQUIRING AGENCY NOT LESS THAN 60
10 DAYS' NOTICE IN WRITING OF INTENTION TO SEEK DAMAGES
11 UNDER THIS OPTION.

12 (III) THE DISPLACED PERSON SHALL NOT, DIRECTLY OR
13 INDIRECTLY, PURCHASE ANY OF THE PERSONAL PROPERTY AT
14 PRIVATE SALE. INVENTORY SHALL BE PAID FOR UNDER THIS
15 OPTION ONLY IF THE BUSINESS IS NOT RELOCATED.

16 (3) ACTUAL REASONABLE EXPENSES IN SEARCHING FOR A
17 REPLACEMENT BUSINESS OR FARM.

18 (4) ACTUAL REASONABLE EXPENSES NECESSARY TO REESTABLISH
19 A DISPLACED FARM, NONPROFIT ORGANIZATION OR SMALL BUSINESS AT
20 ITS NEW SITE, BUT NOT TO EXCEED \$12,000. SITES OCCUPIED
21 SOLELY BY OUTDOOR ADVERTISING SIGNS, DISPLAYS OR DEVICES DO
22 NOT QUALIFY FOR THIS BENEFIT.

23 (5) (I) IN ADDITION TO DAMAGES UNDER SUBSECTION (A) AND
24 PARAGRAPHS (1), (2), (3) OR (4), DAMAGES IN AN AMOUNT
25 EQUAL TO THE AVERAGE ANNUAL NET EARNINGS BUT NOT MORE
26 THAN \$60,000 NOR LESS THAN \$3,000.

27 (II) PAYMENT SHALL BE MADE ONLY IF THE BUSINESS
28 CANNOT BE RELOCATED WITHOUT A SUBSTANTIAL LOSS OF PROFITS
29 AND IF THE BUSINESS IS NOT PART OF A COMMERCIAL
30 ENTERPRISE HAVING MORE THAN THREE OTHER ENTITIES WHICH

1 ARE NOT BEING ACQUIRED BY THE ACQUIRING AGENCY AND WHICH
2 ARE UNDER THE SAME OWNERSHIP AND ARE ENGAGED IN THE SAME
3 OR SIMILAR BUSINESS ACTIVITIES.

4 (III) A PERSON WHOSE SOLE BUSINESS AT A DWELLING
5 FROM WHICH THE PERSON IS DISPLACED IS THE RENTAL OF SUCH
6 PROPERTY TO OTHERS SHALL NOT QUALIFY FOR A PAYMENT UNDER
7 THIS PARAGRAPH.

8 (IV) AS USED IN THIS PARAGRAPH, THE TERM "AVERAGE
9 ANNUAL NET EARNINGS" MEANS ONE-HALF OF ANY NET EARNINGS
10 OF THE BUSINESS OR FARM OPERATION BEFORE FEDERAL, STATE
11 AND LOCAL INCOME TAXES DURING THE TWO TAXABLE YEARS
12 IMMEDIATELY PRECEDING THE TAXABLE YEAR IN WHICH THE
13 BUSINESS OR FARM OPERATION MOVES FROM THE REAL PROPERTY
14 ACQUIRED FOR A PROJECT AND INCLUDES ANY COMPENSATION PAID
15 BY THE BUSINESS OR FARM OPERATION TO THE OWNER, A SPOUSE
16 OR DEPENDENTS DURING THIS PERIOD. THE REGULATIONS
17 PROMULGATED UNDER SECTION 906 (RELATING TO REGULATIONS)
18 MAY DESIGNATE ANOTHER PERIOD DETERMINED TO BE MORE
19 EQUITABLE FOR ESTABLISHING AVERAGE ANNUAL NET EARNINGS AS
20 LONG AS THE DESIGNATED PERIOD DOES NOT PRODUCE A LESSER
21 PAYMENT THAN WOULD BE PRODUCED BY USE OF THE LAST TWO
22 TAXABLE YEARS.

23 § 903. REPLACEMENT HOUSING FOR HOMEOWNERS.

24 (A) ADDITIONAL PAYMENTS TO CERTAIN HOMEOWNERS.--

25 (1) IN ADDITION TO PAYMENTS OTHERWISE AUTHORIZED, THE
26 ACQUIRING AGENCY SHALL MAKE AN ADDITIONAL PAYMENT NOT IN
27 EXCESS OF \$27,000 TO ANY DISPLACED PERSON WHO IS DISPLACED
28 FROM A DWELLING ACTUALLY OWNED AND OCCUPIED BY THE DISPLACED
29 PERSON FOR NOT LESS THAN 180 DAYS PRIOR TO THE INITIATION OF
30 NEGOTIATIONS FOR THE ACQUISITION OF THE PROPERTY OR THE

1 RECEIPT OF WRITTEN NOTICE FROM THE ACQUIRING AGENCY OF INTENT
2 TO ACQUIRE OR ORDER TO VACATE.

3 (2) THE ADDITIONAL PAYMENT SHALL INCLUDE THE FOLLOWING
4 ELEMENTS:

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

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

22 (III) REASONABLE EXPENSES INCURRED BY THE DISPLACED
23 PERSON FOR EVIDENCE OF TITLE, RECORDING AND ATTORNEY
24 FEES, REAL PROPERTY TRANSFER TAXES AND OTHER CLOSING AND
25 RELATED COSTS INCIDENT TO THE PURCHASE AND FINANCING OF
26 THE REPLACEMENT DWELLING, BUT NOT INCLUDING PREPAID
27 EXPENSES.

28 (B) ONE-YEAR TIME PERIOD FOR PURCHASE OF REPLACEMENT
29 DWELLING.--

30 (1) THE ADDITIONAL PAYMENT AUTHORIZED BY THIS SECTION

1 SHALL BE MADE ONLY TO A DISPLACED PERSON WHO PURCHASES AND
2 OCCUPIES A REPLACEMENT DWELLING, WHICH IS DECENT, SAFE,
3 SANITARY AND ADEQUATE TO ACCOMMODATE THE DISPLACED PERSON,
4 NOT LATER THAN THE END OF THE ONE-YEAR PERIOD BEGINNING ON
5 THE DATE ON WHICH THE PERSON RECEIVES FINAL PAYMENT OF FULL
6 ACQUISITION COST FOR THE ACQUIRED DWELLING OR ON THE DATE ON
7 WHICH THE PERSON MOVES FROM THE ACQUIRED DWELLING, WHICHEVER
8 IS LATER. REGULATIONS ISSUED UNDER SECTION 906 (RELATING TO
9 REGULATIONS) MAY PRESCRIBE SITUATIONS WHEN THE ONE-YEAR
10 PERIOD MAY BE EXTENDED.

11 (2) IF THE PERIOD IS EXTENDED, THE PAYMENT UNDER THIS
12 SECTION SHALL BE BASED ON THE COSTS OF RELOCATING THE PERSON
13 TO A COMPARABLE REPLACEMENT DWELLING WITHIN ONE YEAR OF THE
14 DATE ON WHICH THE PERSON RECEIVED FINAL PAYMENT OF FULL
15 ACQUISITION COSTS FOR THE ACQUIRED DWELLING.

16 (C) RIGHT OF ELECTION.--THE PERSON ENTITLED UNDER THIS
17 SECTION SHALL HAVE THE RIGHT TO ELECT THE BENEFITS AVAILABLE
18 UNDER SECTION 904 (RELATING TO REPLACEMENT HOUSING FOR TENANTS
19 AND OTHERS) IN LIEU OF THOSE PROVIDED BY THIS SECTION.

20 § 904. REPLACEMENT HOUSING FOR TENANTS AND OTHERS.

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

22 (1) IN ADDITION TO AMOUNTS OTHERWISE AUTHORIZED, AN
23 ACQUIRING AGENCY SHALL MAKE A PAYMENT TO OR FOR ANY DISPLACED
24 PERSON DISPLACED FROM A DWELLING NOT ELIGIBLE TO RECEIVE A
25 PAYMENT UNDER SECTION 903 (RELATING TO REPLACEMENT HOUSING
26 FOR HOMEOWNERS), WHICH DWELLING WAS ACTUALLY AND LAWFULLY
27 OCCUPIED BY THE DISPLACED PERSON FOR NOT LESS THAN 90 DAYS
28 PRIOR TO THE INITIATION OF NEGOTIATIONS FOR ACQUISITION OF
29 THE DWELLING OR THE RECEIPT OF WRITTEN NOTICE FROM THE
30 ACQUIRING AGENCY OF INTENT TO ACQUIRE OR ORDER TO VACATE. THE

PAYMENT SHALL BE THE AMOUNT DETERMINED TO BE NECESSARY TO
ENABLE THE DISPLACED PERSON TO LEASE A COMPARABLE REPLACEMENT
DWELLING FOR A PERIOD NOT TO EXCEED 42 MONTHS. THE AMOUNT
SHALL BE THE ADDITIONAL AMOUNT, IF ANY, OVER THE ACTUAL
RENTAL OR FAIR RENTAL VALUE OF THE ACQUIRED DWELLING, BUT NOT
MORE THAN \$6,300.

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

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

§ 905. HOUSING REPLACEMENT AUTHORIZATION.

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

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

(1) IF COMPARABLE REPLACEMENT SALE OR RENTAL HOUSING IS
NOT AVAILABLE IN THE NEIGHBORHOOD OR COMMUNITY IN WHICH A
PROGRAM OR PROJECT IS LOCATED AND THIS HOUSING CANNOT
OTHERWISE BE MADE AVAILABLE, THE ACQUIRING AGENCY MAY
PURCHASE, CONSTRUCT, RECONSTRUCT OR OTHERWISE PROVIDE
REPLACEMENT HOUSING BY USE OF FUNDS AUTHORIZED FOR THE
PROGRAM OR PROJECT. FOR THIS PURPOSE, THE ACQUIRING AGENCY
MAY EXERCISE ITS POWER OF EMINENT DOMAIN TO ACQUIRE PROPERTY
IN FEE SIMPLE OR ANY LESSER ESTATE AS IT DEEMS ADVISABLE.

(2) REPLACEMENT HOUSING PROVIDED UNDER THIS SECTION MAY
BE SOLD, LEASED OR OTHERWISE DISPOSED OF BY THE ACQUIRING

1 AGENCY, FOR OR WITHOUT CONSIDERATION, TO DISPLACED PERSONS OR
2 TO NONPROFIT, LIMITED DIVIDEND OR COOPERATIVE ORGANIZATIONS
3 OR PUBLIC BODIES, ON TERMS AND CONDITIONS AS THE ACQUIRING
4 AGENCY DEEMS NECESSARY AND PROPER TO EFFECT THE RELOCATION OF
5 PERSONS DISPLACED BY A PROGRAM OR PROJECT.

6 (3) THE ACQUIRING AGENCY MAY CONTRACT WITH OTHER PUBLIC
7 AGENCIES OR ANY PERSON FOR THE FINANCING, PLANNING,
8 ACQUISITION, DEVELOPMENT, CONSTRUCTION, MANAGEMENT, SALE,
9 LEASE OR OTHER DISPOSITION OF REPLACEMENT HOUSING PROVIDED
10 UNDER THIS SECTION.

11 (C) PLANNING AND OTHER PRELIMINARY EXPENSES FOR REPLACEMENT
12 HOUSING.--

13 (1) A GOVERNMENTAL ACQUIRING AGENCY MAY MAKE LOANS AND
14 GRANTS TO NONPROFIT, LIMITED DIVIDEND OR COOPERATIVE
15 ORGANIZATIONS OR PUBLIC BODIES FOR NECESSARY AND REASONABLE
16 EXPENSES, PRIOR TO CONSTRUCTION, FOR PLANNING AND OBTAINING
17 MORTGAGE FINANCING FOR THE REHABILITATION OR CONSTRUCTION OF
18 HOUSING FOR THESE DISPLACED PERSONS.

19 (2) THE LOANS AND GRANTS SHALL BE MADE PRIOR TO THE
20 AVAILABILITY OF FINANCING FOR ITEMS SUCH AS PRELIMINARY
21 SURVEYS AND ANALYSES OF MARKET NEEDS, PRELIMINARY SITE
22 ENGINEERING, PRELIMINARY ARCHITECTURAL FEES, LEGAL, APPRAISAL
23 AND ORGANIZATIONAL FEES, SITE ACQUISITION, APPLICATION AND
24 MORTGAGE COMMITMENT FEES, CONSTRUCTION LOAN FEES AND
25 DISCOUNTS AND SIMILAR ITEMS.

26 (3) LOANS TO AN ORGANIZATION ESTABLISHED FOR PROFIT
27 SHALL BEAR INTEREST AT MARKET RATE DETERMINED BY THE
28 ACQUIRING AGENCY. ALL OTHER LOANS AND GRANTS SHALL BE WITHOUT
29 INTEREST.

30 (4) THE ACQUIRING AGENCY SHALL REQUIRE REPAYMENT OF

1 LOANS AND GRANTS MADE UNDER THIS SECTION, UNDER ANY TERMS AND
2 CONDITIONS IT REQUIRES, UPON COMPLETION OF THE PROJECT OR
3 SOONER. HOWEVER, EXCEPT IN THE CASE OF A LOAN TO AN
4 ORGANIZATION ESTABLISHED FOR PROFIT, THE ACQUIRING AGENCY MAY
5 CANCEL ANY PART OR ALL OF A LOAN AND MAY CANCEL THE REPAYMENT
6 PROVISIONS OF A GRANT IF IT DETERMINES THAT A PERMANENT LOAN
7 TO FINANCE THE REHABILITATION OR THE CONSTRUCTION OF THE
8 HOUSING CANNOT BE OBTAINED IN AN AMOUNT ADEQUATE FOR
9 REPAYMENT OF THE LOAN.

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

16 § 906. REGULATIONS.

17 THE GENERAL COUNSEL MAY PROMULGATE REGULATIONS NECESSARY TO
18 ASSURE THAT:

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

22 (2) A DISPLACED PERSON WHO MAKES PROPER APPLICATION FOR
23 A PAYMENT AUTHORIZED FOR THAT PERSON BY THIS CHAPTER SHALL BE
24 PAID PROMPTLY AFTER A MOVE OR, IN HARDSHIP CASES, BE PAID IN
25 ADVANCE.

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

30 (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.

§ 907. 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 902(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 INDEPENDENT INVESTIGATION AS THEY DEEM APPROPRIATE, WITHOUT BEING BOUND BY FORMAL RULES OF EVIDENCE.

§ 1102. CONDEMNOR'S EVIDENCE BEFORE VIEWERS.

THE CONDEMNOR SHALL, AT THE HEARING BEFORE THE VIEWERS, PRESENT EXPERT TESTIMONY OF THE AMOUNT OF DAMAGES SUFFERED BY

1 THE CONDEMNEE.

2 § 1103. TRIAL IN COURT ON APPEAL.

3 AT THE TRIAL IN COURT ON APPEAL:

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

10 (2) IF ANY VALUATION EXPERT WHO HAS NOT PREVIOUSLY
11 TESTIFIED BEFORE THE VIEWERS IS TO TESTIFY, THE PARTY CALLING
12 THE EXPERT MUST DISCLOSE THE EXPERT'S NAME AND SERVE A
13 STATEMENT OF THE VALUATION OF THE PROPERTY BEFORE AND AFTER
14 THE CONDEMNATION AND THE EXPERT'S OPINION OF THE HIGHEST AND
15 BEST USE OF THE PROPERTY BEFORE THE CONDEMNATION AND OF ANY
16 PART REMAINING AFTER THE CONDEMNATION ON THE OPPOSING PARTY
17 AT LEAST TEN DAYS BEFORE THE COMMENCEMENT OF THE TRIAL.

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

20 § 1104. COMPETENCY OF CONDEMNEE AS WITNESS.

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

25 § 1105. EVIDENCE GENERALLY.

26 AT THE HEARING BEFORE THE VIEWERS OR AT THE TRIAL IN COURT ON
27 APPEAL:

28 (1) A QUALIFIED VALUATION EXPERT MAY, ON DIRECT OR
29 CROSS-EXAMINATION, STATE ANY OR ALL FACTS AND DATA WHICH THE
30 EXPERT CONSIDERED IN ARRIVING AT AN OPINION, WHETHER OR NOT

1 THE EXPERT HAS PERSONAL KNOWLEDGE OF THE FACTS AND DATA; AND
2 A STATEMENT OF THE FACTS AND DATA AND THE SOURCES OF
3 INFORMATION SHALL BE SUBJECT TO IMPEACHMENT AND REBUTTAL.

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

9 (I) THE PRICE AND OTHER TERMS OF ANY SALE OR
10 CONTRACT TO SELL THE CONDEMNED PROPERTY OR COMPARABLE
11 PROPERTY MADE WITHIN A REASONABLE TIME BEFORE OR AFTER
12 THE DATE OF CONDEMNATION.

13 (II) THE RENT RESERVED AND OTHER TERMS OF ANY LEASE
14 OF THE CONDEMNED PROPERTY OR COMPARABLE PROPERTY WHICH
15 WAS IN EFFECT WITHIN A REASONABLE TIME BEFORE OR AFTER
16 THE DATE OF CONDEMNATION.

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

26 (IV) THE VALUE OF THE LAND TOGETHER WITH THE COST OF
27 REPLACING OR REPRODUCING THE EXISTING IMPROVEMENTS LESS
28 DEPRECIATION OR OBSOLESCENCE.

29 (V) THE COST OF ADJUSTMENTS AND ALTERATIONS TO ANY
30 REMAINING PROPERTY MADE NECESSARY OR REASONABLY REQUIRED

1 BY THE CONDEMNATION.

2 (3) EITHER PARTY MAY SHOW THE DIFFERENCE BETWEEN THE
3 CONDITION OF THE PROPERTY AND OF THE IMMEDIATE NEIGHBORHOOD
4 AT THE TIME OF CONDEMNATION AND AT THE TIME OF VIEW, EITHER
5 BY THE VIEWERS OR JURY.

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

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

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

20 § 1106. USE OF CONDEMNED PROPERTY.

21 IN ARRIVING AT A VALUATION OF THE REMAINING PART OF THE
22 PROPERTY IN A PARTIAL CONDEMNATION, AN EXPERT WITNESS MAY
23 CONSIDER AND TESTIFY TO THE USE TO WHICH THE CONDEMNED PROPERTY
24 IS INTENDED TO BE PUT BY THE CONDEMNOR.

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

26 § 702.1. EXPEDITED APPEALS IN EMINENT DOMAIN PROCEEDINGS.

27 WHEN A COURT IN AN EMINENT DOMAIN PROCEEDING RULES ON
28 PRELIMINARY OBJECTIONS TO A DECLARATION OF TAKING AND IS OF THE
29 OPINION THAT THE MATTERS INVOLVED ARE OF IMMEDIATE PUBLIC
30 IMPORTANCE, IT SHALL, UPON REQUEST OF A PARTY, SO STATE IN THE

1 ORDER. IF AN APPEAL IS TAKEN FROM THAT ORDER, THE APPELLATE
2 COURT SHALL GIVE PRIORITY TO THE DETERMINATION OF THE ISSUES
3 RAISED BY THE APPEAL.

4 SECTION 3. SECTIONS 5526(4), 5527, 5530(A)(3) AND 6121 OF
5 TITLE 42 ARE AMENDED TO READ:

6 § 5526. FIVE YEAR LIMITATION.

7 THE FOLLOWING ACTIONS AND PROCEEDINGS MUST BE COMMENCED
8 WITHIN FIVE YEARS:

9 * * *

10 [(4) A PROCEEDING IN INVERSE CONDEMNATION, IF PROPERTY
11 HAS BEEN INJURED BUT NO PART THEREOF HAS BEEN TAKEN, OR IF
12 THE CONDEMNOR HAS MADE PAYMENT IN ACCORDANCE WITH SECTION
13 407(A) OR (B) (RELATING TO POSSESSION AND PAYMENT OF
14 COMPENSATION) OF THE ACT OF JUNE 22, 1964 (SP.SESS., P.L.84,
15 NO.6), KNOWN AS THE "EMINENT DOMAIN CODE."]

16 § 5527. SIX YEAR LIMITATION.

17 (A) EMINENT DOMAIN.--

18 (1) (I) IF A CONDEMNOR HAS FILED A DECLARATION OF
19 TAKING, A PETITION FOR THE APPOINTMENT OF VIEWERS FOR THE
20 ASSESSMENT OF DAMAGES UNDER TITLE 26 (RELATING TO EMINENT
21 DOMAIN) MUST BE FILED WITHIN SIX YEARS FROM THE DATE ON
22 WHICH THE CONDEMNOR FIRST MADE PAYMENT IN ACCORDANCE WITH
23 26 PA.C.S. § 307(A) OR (B) (RELATING TO POSSESSION, RIGHT
24 OF ENTRY AND PAYMENT OF COMPENSATION).

25 (II) IF PAYMENT IS NOT REQUIRED TO BE MADE UNDER 26
26 PA.C.S. § 307(A) TO OBTAIN POSSESSION, A PETITION FOR THE
27 APPOINTMENT OF VIEWERS MUST BE FILED WITHIN SIX YEARS OF
28 THE FILING OF THE DECLARATION OF TAKING.

29 (2) IF THE CONDEMNOR HAS NOT FILED A DECLARATION OF
30 TAKING, A PETITION FOR THE APPOINTMENT OF VIEWERS FOR THE

1 ASSESSMENT OF DAMAGES UNDER TITLE 26 MUST BE FILED WITHIN SIX
2 YEARS FROM THE DATE ON WHICH THE ASSERTED TAKING, INJURY OR
3 DESTRUCTION OF THE PROPERTY OCCURRED OR COULD REASONABLY HAVE
4 BEEN DISCOVERED BY THE CONDEMNEE.

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

10 § 5530. TWENTY-ONE YEAR LIMITATION.

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

13 * * *

14 [(3) A PROCEEDING IN INVERSE CONDEMNATION, IF PROPERTY
15 HAS BEEN TAKEN AND THE CONDEMNOR HAS NOT MADE PAYMENT IN
16 ACCORDANCE WITH SECTION 407(A) OR (B) (RELATING TO POSSESSION
17 AND PAYMENT OF COMPENSATION) OF THE ACT OF JUNE 22, 1964
18 (SP.SESS., P.L.84, NO.6), KNOWN AS THE "EMINENT DOMAIN
19 CODE."]

20 * * *

21 § 6121. EMINENT DOMAIN MATTERS.

22 EMINENT DOMAIN MATTERS SHALL BE GOVERNED BY THE PROVISIONS OF
23 [ARTICLE VII (RELATING TO EVIDENCE) OF THE ACT OF JUNE 22, 1964
24 (SP.SESS., P.L.84, NO.6), KNOWN AS THE "EMINENT DOMAIN CODE,"]
25 26 PA.C.S. CH. 11 (RELATING TO EVIDENCE) IN ADDITION TO THE
26 PROVISIONS OF THIS CHAPTER.

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

28 § 1505. DONATION OF LAND BY POLITICAL SUBDIVISIONS.

29 IT SHALL BE LAWFUL FOR ANY COUNTY, CITY, BOROUGH, TOWN OR
30 TOWNSHIP TO ACQUIRE BY PURCHASE OR BY GIFT, OR BY THE RIGHT OF

1 EMINENT DOMAIN, ANY LAND FOR THE USE OF THE PENNSYLVANIA
2 NATIONAL GUARD, AND TO CONVEY SUCH LANDS SO ACQUIRED TO THE
3 COMMONWEALTH OF PENNSYLVANIA. THE PROCEEDINGS FOR THE
4 CONDEMNATION OF LANDS UNDER THE PROVISIONS OF THIS CHAPTER AND
5 FOR THE ASSESSMENT OF DAMAGES FOR THE PROPERTY TAKEN, INJURED OR
6 DESTROYED SHALL BE TAKEN IN THE SAME MANNER AS IS NOW PROVIDED
7 BY [THE ACT OF JUNE 22, 1964 (SP.SESS., P.L.84, NO.6), KNOWN AS
8 THE "EMINENT DOMAIN CODE."] TITLE 26 (RELATING TO EMINENT
9 DOMAIN).

10 SECTION 5. REPEALS ARE AS FOLLOWS:

11 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
12 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE AMENDMENT OR
13 ADDITION OF 26 PA.C.S. CHS. 1, 3, 5, 7, 9 AND 11 AND 42
14 PA.C.S. §§ 702.1, 5526(4), 5527, 5530(A)(3) AND 6121.

15 (2) THE FOLLOWING ACTS AND PARTS OF ACTS ARE REPEALED:

16 SECTION 2003(E)(2)(I)(B) OF THE ACT OF APRIL 9, 1929
17 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF
18 1929.

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

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

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

29 AS MUCH OF SECTION 302(A) OF THE ACT OF DECEMBER 21,
30 1988 (P.L.1444, NO.177), KNOWN AS THE GENERAL ASSOCIATION

1 ACT OF 1988, AS READS AS FOLLOWS: "A COURT MAY ISSUE A
2 WRIT OF POSSESSION TO THE CONDEMNOR PRIOR TO THE
3 DISPOSITION OF PRELIMINARY OBJECTIONS WHICH CHALLENGE THE
4 VALIDITY OF A CONDEMNATION OF RIGHTS-OF-WAY OR EASEMENTS
5 FOR OCCUPATION BY WATER, ELECTRIC, GAS, OIL AND/OR
6 PETROLEUM PRODUCTS, TELEPHONE OR TELEGRAPH LINES USED
7 DIRECTLY OR INDIRECTLY IN FURNISHING SERVICE TO THE
8 PUBLIC, AND IF IT SHALL BE DETERMINED FINALLY THAT THE
9 CONDEMNATION IS INVALID IN WHOLE OR IN PART, THE AFFECTED
10 OWNERS MAY RECOVER DAMAGES FOR ANY INJURIES SUSTAINED
11 THEREBY AND SHALL BE ENTITLED TO SUCH EQUITABLE RELIEF AS
12 MAY BE APPROPRIATE IN THE CIRCUMSTANCES."

13 (3) EXCEPT AS TO THE MEASURE OF DAMAGES PRESCRIBED BY 26
14 PA.C.S. CH. 7, NOTHING IN THIS ACT SHALL REPEAL, MODIFY OR
15 SUPPLANT ARTICLES XXVII, XXVIII AND XXIX OF THE ACT OF JULY
16 28, 1953 (P.L.723, NO.230), KNOWN AS THE SECOND CLASS COUNTY
17 CODE, AS THEY ARE APPLICABLE TO PROCEDURES IN THE COURT OF
18 COMMON PLEAS WITH RESPECT TO BRIDGES, VIADUCTS, CULVERTS AND
19 ROADS.

20 (4) THE FOLLOWING PROVISIONS ARE SAVED FROM REPEAL:

21 SECTION 2003(E)(7) OF THE ACT OF APRIL 9, 1929
22 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF
23 1929.

24 15 PA.C.S. § 1511(G)(2).

25 (5) ALL OTHER ACTS AND PARTS OF ACTS ARE REPEALED
26 INSOFAR AS THEY ARE INCONSISTENT WITH THIS ACT.

27 SECTION 6. APPLICABILITY SHALL BE AS FOLLOWS:

28 (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OR (4), THIS ACT
29 SHALL APPLY TO ALL CONDEMNATIONS EFFECTED ON OR AFTER THE
30 EFFECTIVE DATE OF THIS SECTION.

1 (2) THE ADDITION OF 26 PA.C.S. § 710.1 SHALL APPLY TO
2 ALL OF THE FOLLOWING:

3 (I) ACTIONS FILED ON OR AFTER THE EFFECTIVE DATE OF
4 THIS SECTION.

5 (II) AN ACTION PENDING ON THE EFFECTIVE DATE OF THIS
6 SECTION IN WHICH:

7 (A) A FINAL AWARD OR JUDGMENT HAS NOT BEEN
8 DETERMINED; AND

9 (B) THE CONDEMNOR HAS THE OPPORTUNITY TO PAY OR
10 TENDER A REVISED ESTIMATED JUST COMPENSATION TO THE
11 CONDEMNEE BEFORE THE DETERMINATION OF THE FINAL AWARD
12 OR JUDGMENT.

13 (3) THE ADDITION OF 26 PA.C.S. § 713(A) SHALL APPLY TO
14 ALL PERIODS OF TIME AFTER THE EFFECTIVE DATE OF THIS SECTION
15 WITH RESPECT TO CONDEMNATIONS EFFECTED PRIOR TO THE EFFECTIVE
16 DATE OF THIS SECTION.

17 (4) THE AMENDMENT OF 42 PA.C.S. §§ 5526(4), 5527 AND
18 5530(A)(3) SHALL APPLY ONLY TO CAUSES OF ACTION WHICH ACCRUE
19 AFTER THE EFFECTIVE DATE OF THIS SECTION.

20 SECTION 7. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.