

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2189 Session of
2005

INTRODUCED BY CREIGHTON, ARMSTRONG, BAKER, BALDWIN, BOYD,
CALTAGIRONE, CAPPELLI, CLYMER, FEESE, HARRIS, HASAY,
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WILT, YOUNGBLOOD AND BARRAR, NOVEMBER 2, 2005

REFERRED TO COMMITTEE ON JUDICIARY, NOVEMBER 2, 2005

AN ACT

1 Amending Titles 26 (Eminent Domain), 42 (Judiciary and Judicial
2 Procedure) and 51 (Military Affairs) of the Pennsylvania
3 Consolidated Statutes, adding provisions relating to eminent
4 domain; and making related repeals.

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

7 Section 1. Title 26 of the Pennsylvania Consolidated
8 Statutes is amended by adding chapters to read:

9 TITLE 26

10 EMINENT DOMAIN

11 Chapter

12 1. General Provisions

13 3. Procedure to Condemn

14 5. Procedure for Determining Damages

15 7. Just Compensation and Measure of Damages

16 9. Special Damages for Displacement

17 11. Evidence

1 CHAPTER 1

2 GENERAL PROVISIONS

3 Sec.

4 101. Short title of title.

5 102. Application of title.

6 103. Definitions.

7 § 101. Short title of title.

8 This title shall be known and may be cited as the Eminent
9 Domain Code.

10 § 102. Application of title.

11 (a) General rule.--This title provides a complete and
12 exclusive procedure and law to govern all condemnations of
13 property for public purposes and the assessment of damages.

14 (b) Construction.--Nothing in this title shall be construed:

15 (1) To affect the jurisdiction or power of the
16 Pennsylvania Public Utility Commission or any statute
17 providing for the assessment of benefits for public
18 improvements on the properties benefited.

19 (2) To enlarge or diminish the power of condemnation
20 given by law to any condemnor.

21 § 103. Definitions.

22 Subject to additional definitions contained in subsequent
23 provisions of this title which are applicable to specific
24 provisions of this title, the following words and phrases when
25 used in this title shall have the meanings given to them in this
26 section unless the context clearly indicates otherwise:

27 "Acquiring agency." Any entity, including the Commonwealth,
28 vested with the power of eminent domain by the laws of this
29 Commonwealth. This definition is subject to section 901
30 (relating to definitions).

1 "Acquisition cost." General damages or, in the event of
2 amicable acquisition, the price paid by the acquiring agency.

3 "Business." Any lawful activity, except a farm operation,
4 conducted:

5 (1) primarily for the purchase, sale, lease or rental of
6 personal or real property or for the manufacture, processing
7 or marketing of products, commodities or any other personal
8 property;

9 (2) primarily for the sale of services to the public;

10 (3) primarily for outdoor advertising display purposes,
11 if the display must be moved as a result of the project; or

12 (4) by a nonprofit organization.

13 "Comparable replacement dwelling." A dwelling that is:

14 (1) Decent, safe and sanitary.

15 (2) Adequate in size to accommodate the occupants.

16 (3) Within the financial means of the displaced person.

17 (4) Functionally equivalent.

18 (5) In an area not subject to unreasonable adverse
19 environmental conditions.

20 (6) In a location generally not less desirable than the
21 location of the displaced person's dwelling with respect to
22 public utilities, facilities, services and the displaced
23 person's place of employment.

24 "Condemn." To take, injure or destroy property by authority
25 of law for a public purpose.

26 "Condemnee." The owner of a property interest taken, injured
27 or destroyed. The term does not include a mortgagee, judgment
28 creditor or other lienholder.

29 "Condemnor." The acquiring agency, including the
30 Commonwealth, that takes, injures or destroys property by

1 authority of law for a public purpose.

2 "Court." The court of common pleas.

3 "Displaced person."

4 (1) Except as set forth in paragraph (2) or (3), any of
5 the following:

6 (i) A condemnee or other person that moves from real
7 property or moves personal property from real property:

8 (A) as a direct result of a written notice of
9 intent to acquire or the acquisition of the real
10 property, in whole or in part, for a program or
11 project undertaken by an acquiring agency; or

12 (B) on which such person is a residential tenant
13 or conducts a small business or a farm operation as a
14 direct result of rehabilitation, demolition or other
15 displacing activity for a program or project
16 undertaken by an acquiring agency if the displacement
17 is permanent.

18 (ii) A person that was in occupancy of the real
19 property on or before the date of acquisition,
20 notwithstanding the termination or expiration of a lease
21 entered into before or after the event giving rise to the
22 displacement.

23 (2) The term does not include any of the following:

24 (i) A person that unlawfully occupies the
25 displacement property or occupied the property for the
26 purpose of obtaining assistance under this title.

27 (ii) In any case in which the acquiring agency
28 acquires real property for a program or project, a
29 person, other than a person that was an occupant of the
30 property at the time it was acquired, that occupies the

property on a rental basis for a short term or a period
subject to termination when the property is needed for
the program or project.

(3) This definition is subject to section 902(a)(2).

"Farm operation." Any activity conducted solely or primarily
for the production of one or more agricultural products or
commodities, including timber, for sale or home use and
customarily producing these products or commodities in
sufficient quantity to be capable of contributing materially to
the operator's support.

"Natural disaster." A disaster officially declared as a
natural disaster by the Governor.

"Personal property." Any tangible property not considered to
be real property for purposes of general damages under the laws
of this Commonwealth.

"Program or project." Any program or project undertaken by
or for an acquiring agency as to which it has the authority to
exercise the power of eminent domain.

"Small business." A business that has less than 501
employees who are:

- (1) working at the site being acquired; or
- (2) permanently displaced by a program or project.

"Utility." An entity that provides to the public:

- (1) water products;
- (2) electric products;
- (3) gas products;
- (4) oil products;
- (5) petroleum products;
- (6) telephone lines; or
- (7) telegraph lines.

CHAPTER 3

PROCEDURE TO CONDEMN

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§ 301. Venue.

(a) General rule.--A condemnation proceeding shall be brought in the court of the county in which the property is located or, if the property is located in two or more counties, in the court of any one of the counties.

(b) Multiple counties.--Where the property is located in two or more counties and a proceeding is commenced in the court of one of the counties, all subsequent proceedings regarding the same property shall be brought in the same county.

§ 302. Declaration of taking.

(a) Condemnation and passage of title.--

(1) Condemnation under the power of condemnation given by law to a condemnor shall be effected only by the filing in court of a declaration of taking with the security required under section 303(a) (relating to security required).

(2) The title which the condemnor acquires in the property condemned shall pass to the condemnor on the date of

1 the filing, and the condemnor shall be entitled to possession
2 under section 307 (relating to possession, right of entry and
3 payment of compensation).

4 (b) Contents.--The declaration of taking shall be in writing
5 and executed by the condemnor and shall be captioned as a
6 proceeding in rem and contain the following:

7 (1) The name and address of the condemnor.

8 (2) A specific reference to the statute and section
9 under which the condemnation is authorized.

10 (3) A specific reference to the action, whether by
11 ordinance, resolution or otherwise, by which the declaration
12 of taking was authorized, including the date when the action
13 was taken and the place where the record may be examined.

14 (4) A brief description of the purpose of the
15 condemnation.

16 (5) A description of the property condemned, sufficient
17 for identification, specifying the municipal corporation and
18 the county or counties where the property taken is located, a
19 reference to the place of recording in the office of the
20 recorder of deeds of plans showing the property condemned or
21 a statement that plans showing the property condemned are on
22 the same day being lodged for record or filed in the office
23 of the recorder of deeds in the county in accordance with
24 section 304 (relating to recording notice of condemnation).

25 (6) A statement of the nature of the title acquired, if
26 any.

27 (7) A statement specifying where a plan showing the
28 condemned property may be inspected in the county in which
29 the property taken is located.

30 (8) A statement of how just compensation has been made

1 or secured.

2 (c) More than one property included in declaration.--The
3 condemnor may include in one declaration of taking any or all of
4 the properties specified in the action by which the declaration
5 of taking was authorized.

6 (d) Fee.--The prothonotary shall charge one fee for filing
7 each declaration of taking, which shall be the same regardless
8 of the number of properties or condemnees included.

9 (e) Filing.--The condemnor shall file within one year of the
10 action authorizing the declaration of taking a declaration of
11 taking covering all properties included in the authorization not
12 otherwise acquired by the condemnor within this time.

13 § 303. Security required.

14 (a) Bond.--Except as provided in subsection (b), every
15 condemnor shall give security to effect the condemnation by
16 filing with the declaration of taking its bond, without surety,
17 to the Commonwealth for the use of the owner of the property
18 interests condemned, the condition of which shall be that the
19 condemnor shall pay the damages determined by law.

20 (b) Pledge of tax revenues.--

21 (1) Where a condemnor has the power of taxation, it
22 shall not be required to file a bond with the declaration of
23 taking.

24 (2) The funds raised or authorized by law to be raised
25 by the power of taxation of the condemnor shall be deemed
26 pledged and are made security for the payment of the damages
27 determined by law.

28 (c) Insufficient security.--The court, upon preliminary
29 objections of the condemnee under and within the time set forth
30 in section 306(a) (relating to preliminary objections), may

1 require the condemnor to give bond and security as the court
2 deems proper if it appears to the court that the bond or power
3 of taxation of the condemnor is insufficient security.

4 § 304. Recording notice of condemnation.

5 (a) County of recording.--

6 (1) The condemnor, upon filing its declaration of
7 taking, shall on the same day lodge for record a notice of
8 the declaration in the office of the recorder of deeds of the
9 county in which the property is located.

10 (2) If the property is located in two or more counties,
11 the notice shall be recorded in each county.

12 (b) Notice and recording requirements.--

13 (1) The notice shall specify:

14 (i) The court term and number of the declaration of
15 taking.

16 (ii) The date it was filed.

17 (iii) A description or plan of the property
18 condemned sufficient for identification.

19 (iv) The names of the owners of the property
20 interests condemned, as reasonably known to the
21 condemnor.

22 (2) The notices shall be indexed in the deed indices
23 showing the condemnee set forth in the notice as grantor and
24 the condemnor as grantee.

25 (3) If plans are to be recorded as part of the notice,
26 they shall be submitted on standard legal size paper. If
27 plans are to be filed as part of the notice, they shall be in
28 legible scale and filed in a condemnation book or file or
29 microfilmed, with a notation as to the condemnation book and
30 page number, file number or microfilm number to be made by

1 the recorder on the margin of the notice.

2 (4) Upon the notice being assigned a book and page
3 number by the recorder of deeds the condemnor shall file with
4 the prothonotary under the caption of the declaration of
5 taking a memorandum of the book and page number in which the
6 notice is recorded.

7 (c) Fees.--The recorder shall receive as a fee for recording
8 each notice the sums as provided by the act of June 12, 1919
9 (P.L.476, No.240), referred to as the Second Class County
10 Recorder of Deeds Fee Law, and the act of April 8, 1982
11 (P.L.310, No.87), referred to as the Recorder of Deeds Fee Law.
12 § 305. Notice to condemnee.

13 (a) Written notice.--Within 30 days after the filing of the
14 declaration of taking, the condemnor shall give written notice
15 of the filing to the condemnee, to any mortgagee of record, and
16 to any lienholder of record.

17 (b) Service.--

18 (1) The notice shall be served within or without this
19 Commonwealth, by any competent adult, in the same manner as
20 in a civil action or by registered mail to the last known
21 address of the person being served.

22 (2) If service cannot be made in the manner set forth
23 under paragraph (1), then service shall be made by posting a
24 copy of the notice upon the most public part of the property
25 and by publication of a copy of the notice, omitting the plot
26 plan required by subsection (c)(8), one time each in one
27 newspaper of general circulation and the legal journal, if
28 any, published in the county.

29 (c) Contents.--The notice to be given the condemnee shall
30 state:

- 1 (1) The caption of the case.
- 2 (2) The date of filing of the declaration of taking and
3 the court term and number.
- 4 (3) The name of the condemnee to whom it is directed.
- 5 (4) The name and address of the condemnor.
- 6 (5) A specific reference to the statute and section
7 under which the condemnation action is authorized.
- 8 (6) A specific reference to the action, whether by
9 ordinance, resolution or otherwise, by which the declaration
10 of taking was authorized, including the date when the action
11 was taken and the place where the record may be examined.
- 12 (7) A brief description of the purpose of the
13 condemnation.
- 14 (8) A statement that the condemnee's property has been
15 condemned and a reasonable identification of the property.
- 16 (9) In the case of a partial taking, a plot plan showing
17 the condemnee's entire property and the area taken.
- 18 (10) A statement of the nature of the title acquired.
- 19 (11) A statement specifying where a plan showing the
20 condemned property may be inspected in the county in which
21 the property taken is located.
- 22 (12) A statement of how just compensation has been made
23 or secured.
- 24 (13) A statement that, if the condemnee wishes to
25 challenge the power or the right of the condemnor to
26 appropriate the condemned property, the sufficiency of the
27 security, the procedure followed by the condemnor or the
28 declaration of taking, the condemnee must file preliminary
29 objections within 30 days after being served with notice of
30 condemnation.

(d) Compliance.--Service of a copy of the declaration of taking, together with the information and notice required by subsection (c)(2), (8), (9) and (13), shall constitute compliance with the notice requirements of this section.

(e) Proof of service.--The condemnor shall file proof of service of the notice.

§ 306. Preliminary objections.

(a) Filing and exclusive method of challenging certain matters.--

(1) Within 30 days after being served with notice of condemnation, the condemnee may file preliminary objections to the declaration of taking.

(2) The court upon cause shown may extend the time for filing preliminary objections.

(3) Preliminary objections shall be limited to and shall be the exclusive method of challenging:

(i) The power or right of the condemnor to appropriate the condemned property unless it has been previously adjudicated.

(ii) The sufficiency of the security.

(iii) The declaration of taking.

(iv) Any other procedure followed by the condemnor.

(b) Waiver.--Failure to raise by preliminary objections the issues listed in subsection (a) shall constitute a waiver. Issues of compensation may not be raised by preliminary objections.

(c) Grounds to be stated.--Preliminary objections shall state specifically the grounds relied on.

(d) When raised.--All preliminary objections shall be raised at one time and in one pleading. They may be inconsistent.

1 (e) Service.--The condemnee shall serve a copy of the
2 preliminary objections on the condemnor within 72 hours after
3 filing them.

4 (f) Disposition.--

5 (1) The court shall determine promptly all preliminary
6 objections and make preliminary and final orders and decrees
7 as justice shall require, including the revesting of title.

8 (2) If an issue of fact is raised, the court shall take
9 evidence by depositions or otherwise.

10 (3) The court may allow amendment or direct the filing
11 of a more specific declaration of taking.

12 (g) Costs and expenses.--

13 (1) If preliminary objections which have the effect of
14 terminating the condemnation are sustained, the condemnor
15 shall reimburse the condemnee for reasonable appraisal,
16 attorney and engineering fees and other costs and expenses
17 actually incurred because of the condemnation proceedings.

18 (2) The court shall assess costs and expenses under this
19 subsection.

20 § 307. Possession, right of entry and payment of compensation.

21 (a) Possession or right of entry of condemnor.--

22 (1) (i) The condemnor, after the expiration of the time
23 for filing preliminary objections by the condemnee to the
24 declaration of taking, shall be entitled to possession or
25 right of entry upon payment of, or a written offer to pay
26 to the condemnee, the amount of just compensation as
27 estimated by the condemnor.

28 (ii) The condemnor shall be entitled to possession
29 or right of entry upon an easement without the payment of
30 or offer to pay the estimated just compensation if the

1 condemnor has the right to assess the property for
2 benefits.

3 (iii) If a condemnee or any other person then
4 refuses to deliver possession or permit right of entry,
5 the prothonotary upon praecipe of the condemnor shall
6 issue a rule, returnable in five days after service upon
7 the condemnee or the other person, to show cause why a
8 writ of possession should not issue.

9 (iv) The court, unless preliminary objections
10 warranting delay are pending, may issue a writ of
11 possession conditioned except as provided in this
12 subsection upon payment to the condemnee or into court of
13 the estimated just compensation and on any other terms as
14 the court may direct.

15 (2) A court may issue a writ of possession to a
16 condemnor prior to the disposition of preliminary objections.

17 (i) If it is finally determined that a condemnation
18 is invalid in a case in which preliminary objections
19 challenge the validity of a right-of-way or easement for
20 occupation by a utility, the affected owners may recover
21 damages for injuries sustained by taking possession under
22 this paragraph and are entitled to appropriate equitable
23 relief.

24 (ii) If it is finally determined that any other
25 condemnation is invalid after the granting of possession
26 under this paragraph, the affected owners may recover
27 costs and expenses under section 306(g) and are entitled
28 to disposition under section 306(f).

29 (b) Tender of possession or right of entry by condemnee.--

30 (1) If within 60 days from the filing of the declaration

1 of taking the condemnor has not paid just compensation as
2 provided in subsection (a), the condemnee may tender
3 possession or right of entry in writing and the condemnor
4 shall then make payment of the just compensation due the
5 condemnee as estimated by the condemnor.

6 (2) If the condemnor fails to make the payment, the
7 court, upon petition of the condemnee, may compel the
8 condemnor to file a declaration of estimated just
9 compensation or, if the condemnor fails or refuses to file
10 the declaration, may at the cost of the condemnor appoint an
11 impartial expert appraiser to estimate just compensation.

12 (3) The court may, after hearing, enter judgment for the
13 amount of the estimated just compensation.

14 (c) Compensation without prejudice.--

15 (1) The compensation paid under subsections (a) and (b)
16 shall be without prejudice to the rights of either the
17 condemnor or the condemnee to proceed to a final
18 determination of the just compensation, and any payments made
19 shall be considered only as payments pro tanto of the just
20 compensation as finally determined.

21 (2) Following the rendition of the verdict, the court
22 shall mold the verdict to deduct the estimated just
23 compensation previously paid by the condemnor.

24 (3) In no event shall the condemnee be compelled to pay
25 back to the condemnor the compensation paid under subsection
26 (a) or (b), even if the amount of just compensation as
27 finally determined is less than the compensation paid.

28 § 308. Revocation of condemnation proceedings.

29 (a) Declaration of relinquishment.--

30 (1) The condemnor, by filing a declaration of

1 relinquishment in court within two years from the filing of
2 the declaration of taking and before having made the payment
3 provided in section 307(a) or (b) (relating to possession,
4 right of entry and payment of compensation) or as to which
5 the condemnee has not tendered possession of the condemned
6 property as provided in section 307, may relinquish all or
7 any part of the property condemned that it has not taken
8 actual possession of for use in the improvement.

9 (2) The title shall then revest in the condemnee as of
10 the date of the filing of the declaration of taking and all
11 mortgages and other liens existing as of that date and not
12 thereafter discharged shall be reinstated.

13 (b) Notice.--Notice of the relinquishment shall be:

14 (1) Recorded in the office of the recorder of deeds of
15 the county in which the property taken is located, with the
16 condemnor as the grantor and the condemnee as the grantee.

17 (2) Served on the condemnee, any mortgagee of record and
18 any lienholder of record in the same manner as provided for
19 service of the declaration of taking.

20 (c) Fees.--The fees payable to the recorder for recording
21 the notice of relinquishment shall be in the same amounts as
22 provided in section 304(c) (relating to recording notices of
23 condemnation).

24 (d) Costs and expenses.--Where condemned property is
25 relinquished, the condemnee shall be reimbursed by the condemnor
26 for reasonable costs and expenses as provided in section 306(g)
27 (relating to preliminary objections).

28 (e) Agreement.--The condemnor and the condemnee, without the
29 filing of a declaration of relinquishment, may by agreement
30 effect a revesting of title in the condemnee which agreement

1 shall be properly recorded.

2 § 309. Right to enter property prior to condemnation.

3 (a) General rule.--Prior to the filing of the declaration of
4 taking, the condemnor or its employees or agents shall have the
5 right to enter upon any land or improvement in order to make
6 studies, surveys, tests, soundings and appraisals.

7 (b) Notice to owner required.--The owner of the land or the
8 party in whose name the property is assessed shall be notified
9 ten days prior to entry on the property.

10 (c) Damages.--

11 (1) Any actual damages sustained by the owner of a
12 property interest in the property entered upon by the
13 condemnor shall be paid by the condemnor.

14 (2) Damages shall be assessed by the court, or the court
15 may refer the matter to viewers to ascertain and assess the
16 damages sustained by the condemnee.

17 (d) Construction.--The exercise of this right of entry by
18 the condemnor shall neither constitute a condemnation nor be
19 interpreted as a notice of an intent to acquire the real
20 property.

21 § 310. Abandonment of project.

22 (a) Disposition of property.--

23 (1) If a condemnor has condemned a fee and then abandons
24 the purpose for which the property has been condemned, the
25 condemnor may dispose of it by sale or otherwise.

26 (2) If the property has not been substantially improved,
27 it may not be disposed of within three years after
28 condemnation without first being offered to the condemnee at
29 the same price paid to the condemnee by the condemnor.

30 (3) If the property is not located within the corporate

1 boundaries of a county of the first or second class and has
2 not been substantially improved and was devoted to
3 agricultural use at the time of the condemnation, it may not
4 be disposed of within 12 years after condemnation without
5 first being offered to the condemnee at the same price paid
6 to the condemnee by the condemnor.

7 (b) Notice.--The condemnee shall be served with notice of
8 the offer in the same manner as prescribed for the service of
9 notices in section 305(b) (relating to notice to condemnee) and
10 shall have 90 days after receipt of notice to make written
11 acceptance.

12 (c) Certain conditional offers prohibited.--The condemnor
13 may not condition any offer required to be made to a condemnee
14 under subsection (a) on the payment by the condemnee of
15 additional fees, real estate taxes or payments in lieu of taxes
16 or other costs.

17 (d) Definitions.--As used in this section, the following
18 words and phrases shall have the meanings given to them in this
19 subsection:

20 "Agricultural commodity." Any plant and animal products,
21 including Christmas trees, produced in this Commonwealth for
22 commercial purposes.

23 "Agricultural use." Use of the land for the purpose of
24 producing an agricultural commodity or when devoted to and
25 meeting the requirements and qualifications for payments or
26 other compensation pursuant to a soil conservation program under
27 an agreement with an agency of the Federal Government. Land
28 containing a farmhouse or other buildings related to farming
29 shall be deemed to be in agricultural use.

PROCEDURE FOR DETERMINING DAMAGES

Sec.

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§ 501. Agreement as to damages.

At any stage of the proceedings, the condemnor and the
condemnee may agree upon all or any part or item of the damages
and proceed to have those parts or items not agreed upon
assessed as provided in this chapter. The condemnor may make

1 payment of any part or item agreed upon.

2 § 502. Petition for appointment of viewers.

3 (a) Contents of petition.--A condemnor, condemnee or
4 displaced person may file a petition requesting the appointment
5 of viewers, setting forth:

6 (1) A caption designating the condemnee or displaced
7 person as the plaintiff and the condemnor as the defendant.

8 (2) The date of the filing of the declaration of taking
9 and whether any preliminary objections have been filed and
10 remain undisposed of.

11 (3) In the case of a petition of a condemnee or
12 displaced person, the name of the condemnor.

13 (4) The names and addresses of all condemnees, displaced
14 persons and mortgagees known to the petitioner to have an
15 interest in the property acquired and the nature of their
16 interest.

17 (5) A brief description of the property acquired.

18 (6) A request for the appointment of viewers to
19 ascertain just compensation.

20 (b) Property included in condemnor's petition.--The
21 condemnor may include in its petition any or all of the property
22 included in the declaration of taking.

23 (c) Condemnation where no declaration of taking has been
24 filed.--

25 (1) An owner of a property interest who asserts that the
26 owner's property interest has been condemned without the
27 filing of a declaration of taking may file a petition for the
28 appointment of viewers substantially in the form provided for
29 in subsection (a) setting forth the factual basis of the
30 petition.

1 (2) The court shall determine whether a condemnation has
2 occurred, and, if the court determines that a condemnation
3 has occurred, the court shall determine the condemnation date
4 and the extent and nature of any property interest condemned.

5 (3) The court shall enter an order specifying any
6 property interest which has been condemned and the date of
7 the condemnation.

8 (4) A copy of the order and any modification shall be
9 filed by the condemnor in the office of the recorder of deeds
10 of the county in which the property is located and shall be
11 indexed in the deed indices showing the condemnee as grantor
12 and the condemnor as grantee.

13 (d) Separate proceedings.--The court, in furtherance of
14 convenience or to avoid prejudice, may, on its own motion or on
15 motion of any party, order separate viewers' proceedings or
16 trial when more than one property has been included in the
17 petition.

18 § 503. View.

19 In every proceeding:

20 (1) At least one of the viewers appointed shall be an
21 attorney at law who shall be chairman of the board and who
22 shall attend the view.

23 (2) At least two of the three viewers appointed shall
24 view the property in question.

25 § 504. Appointment of viewers.

26 (a) Court to appoint.--

27 (1) Upon the filing of a petition for the appointment of
28 viewers, the court, unless preliminary objections to the
29 validity of the condemnation or jurisdiction, warranting
30 delay, are pending, shall promptly appoint three viewers, who

1 shall view the premises, hold hearings and file a report.

2 (2) In counties of the first class, the court may
3 appoint an alternate viewer in addition to the three viewers
4 specifically appointed.

5 (3) The prothonotary shall promptly notify the viewers
6 of their appointment unless a local rule provides another
7 method of notification.

8 (4) No viewer shall represent a client or testify as an
9 expert witness before the board.

10 (b) Service of petition for the appointment of viewers and
11 order appointing viewers.--The petitioners shall promptly send
12 to all other parties by registered mail, return receipt
13 requested, a certified true copy of the petition for the
14 appointment of viewers and a copy of the court order appointing
15 the viewers if an order has been entered. A copy of the petition
16 and order, if entered, shall also be mailed to all mortgagees
17 and other lienholders of record.

18 (c) Notice of views and hearings.--The viewers shall give
19 notice of the time and place of all views and hearings. The
20 notice shall be given to all parties by not less than 30 days
21 written notice by registered mail, return receipt requested.

22 (d) Preliminary objections.--

23 (1) Any objection to the appointment of viewers may be
24 raised by preliminary objections filed within 30 days after
25 receipt of notice of the appointment of viewers.

26 (2) Objections to the form of the petition or the
27 appointment or the qualifications of the viewers in any
28 proceeding or to the legal sufficiency or factual basis of a
29 petition filed under section 502(c) (relating to petition for
30 appointment of viewers) are waived unless included in

1 preliminary objections.

2 (3) An answer with or without new matter may be filed
3 within 20 days of service of preliminary objections, and a
4 reply to new matter may be filed within 20 days of service of
5 the answer.

6 (4) The court shall determine promptly all preliminary
7 objections and make any orders and decrees as justice
8 requires.

9 (5) If an issue of fact is raised, the court shall
10 conduct an evidentiary hearing or order that evidence be
11 taken by deposition or otherwise, but in no event shall
12 evidence be taken by the viewers on this issue.

13 § 505. Service of notice of view and hearing.

14 (a) General rule.--Notice of the view and hearing shall be
15 served, within or without this Commonwealth, by any competent
16 adult in the same manner as a civil action or by registered
17 mail, return receipt requested, to the last known address of the
18 condemnee and condemnor.

19 (b) Public posting.--If service cannot be made in the manner
20 set forth in subsection (a), then service shall be made by
21 posting a copy of the notice upon a public part of the property
22 and by publication, at the cost of the condemnor, once in a
23 newspaper of general circulation and once in the legal
24 publication, if any, designated by rule or order of court for
25 publication of legal notices, published in the county.

26 (c) Proof of service.--Proof of service and the manner of
27 service shall be attached to the viewers' report.

28 § 506. Additional condemnees, mortgagees and intervention.

29 (a) Identification.--The condemnee, at or before the hearing
30 at which the claim is presented, shall furnish the viewers and

1 the condemnor with the names and addresses of all other
2 condemnees known to the condemnee to have an interest in his
3 property and the nature of their interests and the names and
4 addresses of all mortgagees and lienholders of record known to
5 the condemnee.

6 (b) Notice.--

7 (1) The viewers shall notify by written notice all
8 persons whose names are furnished under subsection (a) of the
9 pendency of the proceedings and of subsequent hearings.

10 (2) If these persons have not received 20 days' notice
11 of the hearing, the viewers shall, upon request, adjourn the
12 hearing to allow notice.

13 (c) Intervention.--The court may permit a mortgagee,
14 judgment creditor or other lienholder to intervene in the
15 proceedings where the person's interest is not adequately
16 protected, but a person shall not be a party to the proceedings
17 unless the person has intervened.

18 § 507. Joint claims.

19 (a) Required.--The claims of all the owners of the condemned
20 property, including joint tenants, tenants in common, life
21 tenants, remaindermen, owners of easements or ground rents and
22 all others having an interest in the property and the claims of
23 all tenants, if any, of the property, shall be heard or tried
24 together.

25 (b) Apportionment of damages.--The award of the viewers or
26 the verdict on appeal from the viewers shall, first, fix the
27 total amount of damages for the property and, second, apportion
28 the total amount of damages between or among the several
29 claimants entitled to damages.

30 (c) Separate hearings.--Claims for special damages under

1 section 902 (relating to moving and related expenses of
2 displaced persons) may be heard or tried separately.

3 § 508. Appointment of trustee or guardian ad litem.

4 The court on its own motion may, or on petition of any party
5 in interest shall, appoint a trustee ad litem or guardian ad
6 litem, as may be appropriate, in accordance with general rules.

7 § 509. Furnishing of plans to viewers.

8 (a) Duty of condemnor.--The condemnor shall provide the
9 viewers at or before the view with a plan showing the entire
10 property involved, the improvements, the extent and nature of
11 the condemnation and any other physical data, including grades,
12 as may be necessary for the proper determination of just
13 compensation.

14 (b) Supplemental plans.--If, in the opinion of the viewers,
15 the plans are insufficient, the viewers may require the
16 submission of supplemental plans.

17 (c) Copies to condemnee.--Copies of the plans shall be
18 furnished at the same time, without cost, to the condemnee upon
19 written request.

20 (d) Condemnor to pay for condemnee cost.--If the condemnor
21 does not furnish a plan or the condemnor's plans are
22 insufficient, the court, on application of the condemnee, may
23 charge to the condemnor, as costs, reasonable expenses for plans
24 furnished by the condemnee.

25 § 510. Powers of viewers.

26 (a) Proceedings.--

27 (1) The viewers may adjourn the proceedings from time to
28 time. Upon request of the viewers or a party, the court which
29 appointed the viewers shall issue a subpoena to testify or to
30 produce books and documents.

1 (2) All the viewers shall act, unless prevented by
2 sickness or other unavoidable cause, but a majority of the
3 viewers may hear, determine, act upon and report all matters
4 relating to the view for which they were appointed.

5 (b) Construction.--The provisions of this section shall not
6 be affected by the appointment of an alternate viewer as
7 provided for in section 504 (relating to appointment of
8 viewers).

9 § 511. Administrative matters for viewers' hearings.

10 (a) Facilities.--All viewers' hearings shall be held
11 publicly in a suitable place within the county designated by the
12 court.

13 (b) Stenographic notes.--Whenever in the opinion of the
14 viewers it is desirable, accurate stenographic notes of hearings
15 shall be taken, and copies of the notes shall be furnished to
16 the parties interested when desired upon payment of a sum fixed
17 by the rules and regulations of the respective court.

18 § 512. Report of viewers.

19 The viewers shall file a report which shall include in brief
20 and concise paragraph form:

21 (1) The date of their appointment as viewers.

22 (2) A reference to the notices of the time and place of
23 view and hearing with proof of service of notices, which
24 shall be attached to the report.

25 (3) A copy of the plan showing the extent of the taking
26 or injury upon which the viewers' award is predicated and a
27 statement of the nature of the interest condemned.

28 (4) The date of the filing of the declaration of taking.

29 (5) A schedule of damages awarded and benefits assessed,
30 to and by whom payable, and for which property, separately

1 stated as follows: general damages, moving and removal
2 expenses, business dislocation damages and other items of
3 special damages authorized by this title and the date from
4 which damages for delay shall be calculated.

5 (6) In the case of a partial taking, a statement as to
6 the amount of the general damages attributable as severance
7 damages to the part of the property not taken, if the
8 apportionment has been requested in writing by the condemnee.

9 (7) Where there are several interests in the condemned
10 property, a statement of the total amount of damages and the
11 distribution between or among the several claimants.

12 (8) Whether there are other claimants to any interest or
13 estate in the property condemned and the viewers'
14 determination of the extent, if any, of each interest in the
15 property and in the award.

16 (9) Their rulings on any written requests for findings
17 of fact and conclusions of law submitted to them.

18 (10) Other matters they deem relevant.

19 § 513. Disagreement.

20 If a majority of the viewers do not agree on a decision,
21 three new viewers shall be appointed by the court upon
22 application of any interested party.

23 § 514. Filing of report of viewers.

24 (a) Time period for filing.--The viewers shall file their
25 report within 30 days of their final hearing or within 30 days
26 from the filing of the transcription of the stenographic notes
27 of testimony. The transcription shall be filed within 30 days of
28 the final hearing.

29 (b) Copy of report and notice to parties.--Ten days before
30 the filing of their report, the viewers shall mail a copy of the

1 report to all parties or their attorneys of record, with notice
2 of the date of the intended filing and that the report shall
3 become final unless an appeal is filed within 30 days from the
4 date the report is filed.

5 (c) Correction of errors.--Prior to the filing of their
6 report, the viewers may correct any errors in the report and
7 give notice to the persons affected.

8 (d) Other entities to receive report.--A copy of the report,
9 when filed, shall also be mailed to all mortgagees of record and
10 other lienholders of record.

11 § 515. Reports.

12 (a) Multiple properties or claims.--The viewers may include
13 in one report one or more properties or claims under section 902
14 (relating to moving and related expenses of displaced persons)
15 referred to them under the same or separate petitions if the
16 properties are included in the same declaration of taking.

17 (b) Expenses and damages.--The viewers may file a separate
18 report for expenses and damages under section 902.

19 (c) Finality.--Each report shall be final as to the property
20 or properties included and subject to separate appeal.

21 § 516. Right of appeal.

22 (a) Extent of right.--

23 (1) Any party aggrieved by the decision of the viewers
24 may appeal to the court. The appeal shall raise all
25 objections of law or fact to the viewers' report.

26 (2) The appeal shall be signed by the appellant or an
27 attorney or agent, and no verification shall be required.

28 (3) Any award of damages or assessment of benefits, as
29 the case may be, as to which no appeal is taken shall become
30 final as of course and shall constitute a final judgment.

1 (b) Consolidation.--The court, on its own motion or on
2 application of any party in interest, may consolidate separate
3 appeals involving only common questions of law as one
4 proceeding.

5 (c) Cross appeals.--If a timely appeal is filed by a party,
6 any other party may file an appeal within 15 days of the date on
7 which the first appeal was filed. An appeal may be taken from
8 less than all of an award.

9 (d) Withdrawal.--Prior to the beginning of testimony, any
10 party may withdraw its appeal without the consent of the other
11 parties.

12 § 517. Appeals.

13 (a) Contents.--The appeal shall set forth:

14 (1) The name of appellant and appellee.

15 (2) A brief description or identification of the
16 property involved and the condemnee's interest.

17 (3) A reference to the proceedings appealed from and the
18 date of the filing of the viewers' report.

19 (4) Objections, if any, to the viewers' report, other
20 than to the amount of the award.

21 (5) A demand for jury trial, if desired. If the
22 appellant desires a jury trial, the appellant shall at the
23 time of filing the appeal endorse the appeal or file
24 separately a written demand for jury trial, signed by the
25 appellant or counsel.

26 (b) Jury trial.--

27 (1) If no demand for jury trial is made by the
28 appellant, any other party may file a written demand for jury
29 trial within 15 days after being served with a copy of the
30 appeal.

1 (2) If no party makes a demand for a jury trial as
2 provided in this section, the right to jury trial shall be
3 deemed to have been waived, and the court shall try the case
4 without a jury.

5 (c) Service.--The appellant shall serve a copy of the appeal
6 on all other parties within five days after filing the appeal.
7 Proof of service of a copy of the appeal shall be filed by the
8 appellant.

9 (d) Other pleadings not required.--No other pleadings shall
10 be required and the cause shall be deemed at issue.

11 § 518. Disposition of appeal.

12 An appeal shall be disposed as follows:

13 (1) All objections, other than to the amount of the
14 award, raised by the appeal shall be determined by the court
15 preliminarily.

16 (2) The court may confirm, modify or change the report
17 or refer it back to the same or other viewers. A decree
18 confirming, modifying or changing the report constitutes a
19 final order.

20 (3) The amount of damages shall be determined by the
21 court unless a jury trial has been demanded.

22 (4) At the trial of the case, the condemnee shall be the
23 plaintiff and the condemnor shall be the defendant.

24 § 519. Allocation of damages.

25 (a) Severance damages.--Upon appeal from an award of
26 viewers, the court, upon the request of the plaintiff, shall,
27 after the jury or the court, if the trial is without jury, has
28 returned its general verdict, make a specific finding and
29 allocation of the amount of the general verdict attributable to
30 severance damages to the part of the property not taken.

(b) Other damages.--The jury, or the court in a trial without a jury, shall make specific findings as to the portion of the verdict allocated to:

- (1) general damages;
- (2) moving and removal expenses;
- (3) business dislocation damages; and
- (4) other items of special damages authorized by this title;

except reasonable appraisal, attorney and engineering fees recoverable under sections 306 (relating to preliminary objections), 308 (relating to revocation of condemnation 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.

1 (a) Liens.--

2 (1) Damages payable to a condemnee under sections 701
3 (relating to just compensation; other damages) through 707
4 (relating to removal of machinery, equipment or fixtures),
5 713 (relating to delay compensation), 714 (relating to
6 consequential damages), 715 (relating to damages for vacation
7 of roads) and 902(b)(1) and (2) (relating to moving and
8 related expenses of displaced persons) shall be subject to a
9 lien for all taxes and municipal claims assessed against the
10 property and to all mortgages, judgments and other liens of
11 record against the property for which the particular damages
12 are payable, existing at the date of the filing of the
13 declaration of taking.

14 (2) The liens shall be paid out of the damages in order
15 of priority before any payment to the condemnee, unless
16 released.

17 (3) In the case of a partial taking or of damages under
18 sections 714 and 715, the lienholder shall be entitled only
19 to an equitable pro rata share of the damages lienable under
20 this section.

21 (b) Distribution of damages.--

22 (1) The condemnor shall distribute the damages properly.
23 If the condemnor is unable to determine proper distribution
24 of the damages, it may, without payment into court, petition
25 the court to distribute the damages and shall furnish the
26 court with a schedule of proposed distribution.

27 (2) Notice of the filing of the petition and schedule of
28 proposed distribution shall be given to all condemnees,
29 mortgagees, judgment creditors and other lienholders, as
30 shown in the proposed schedule, in any manner as the court

1 may direct by general rule or special order.

2 (3) The court may hear the matter or may appoint a
3 master to hear and report or may order any issue tried by the
4 court and jury as may appear proper under all the
5 circumstances.

6 (4) The court shall then enter an order of distribution
7 of the fund.

8 § 522. Payment into court and distribution.

9 (a) Payment into court.--

10 (1) Upon refusal to accept payment of the damages or of
11 the estimated just compensation under section 307 (relating
12 to possession, right of entry and payment of compensation) or
13 if the party entitled thereto cannot be found or if for any
14 other reason the amount cannot be paid to the party entitled
15 thereto, the court upon petition of the condemnor, which
16 shall include a schedule of proposed distribution, may direct
17 payment and costs into court or as the court may direct in
18 full satisfaction.

19 (2) The condemnor shall give 20 days' notice of the
20 presentation of the petition, including a copy of the
21 schedule of the proposed distribution, to all parties in
22 interest known to the condemnor in any manner as the court
23 may direct by general rule or special order.

24 (3) If the court is satisfied in a particular case that
25 the condemnor failed to use reasonable diligence in giving
26 notice, the court may, upon petition of any party in interest
27 adversely affected by the failure to give notice, order that
28 compensation for delay in payment be awarded to the party for
29 the period after deposit in court by the condemnor under this
30 section until the time the party in interest has received a

1 distribution of funds under this section.

2 (b) Distribution.--The court upon petition of any party in
3 interest shall distribute the funds paid under subsection (a) or
4 any funds deposited in court under section 307 to the persons
5 entitled thereto in accordance with the procedure in section 521
6 (relating to liens and distribution of damages), but, if no
7 petition is presented within a period of five years of the date
8 of payment into court, the court shall order the fund or any
9 balance remaining to be paid to the Commonwealth without
10 escheat. No fee shall be charged against these funds.

11 CHAPTER 7

12 JUST COMPENSATION AND MEASURE OF DAMAGES

13 Sec.

14 701. Just compensation; other damages.

15 702. Measure of damages.

16 703. Fair market value.

17 704. Effect of imminence of condemnation.

18 705. Contiguous tracts and unity of use.

19 706. Effect of condemnation use on after value.

20 707. Removal of machinery, equipment or fixtures.

21 708. Expenses incidental to transfer of title.

22 709. Condemnee's costs where no declaration of taking filed.

23 710. Limited reimbursement of appraisal, attorney and
24 engineering fees.

25 711. Payment on account of increased mortgage costs.

26 712. Loss of rentals because of imminence of condemnation.

27 713. Delay compensation.

28 714. Consequential damages.

29 715. Damages for vacation of roads.

30 716. Attempted avoidance of monetary just compensation.

1 § 701. Just compensation; other damages.

2 A condemnee shall be entitled to just compensation for the
3 taking, injury or destruction of the condemnee's property,
4 determined as set forth in this chapter. Other damages shall
5 also be paid or awarded as provided in this title.

6 § 702. Measure of damages.

7 (a) Just compensation.--Just compensation shall consist of
8 the difference between the fair market value of the condemnee's
9 entire property interest immediately before the condemnation and
10 as unaffected by the condemnation and the fair market value of
11 the property interest remaining immediately after the
12 condemnation and as affected by the condemnation.

13 (b) Urban development or redevelopment condemnation.--In the
14 case of the condemnation of property in connection with any
15 urban development or redevelopment project, which property is
16 damaged by subsidence due to failure of surface support
17 resulting from the existence of mine tunnels or passageways
18 under the property or by reason of fires occurring in mine
19 tunnels or passageways or of burning coal refuse banks, the
20 damage resulting from the subsidence or underground fires or
21 burning coal refuse banks shall be excluded in determining the
22 fair market value of the condemnee's entire property interest
23 immediately before the condemnation.

24 (c) Value of property damaged by natural disaster.--

25 (1) In the case of the condemnation of property in
26 connection with any program or project which property is
27 damaged by any natural disaster, the damage resulting from
28 the natural disaster shall be excluded in determining fair
29 market value of the condemnee's entire property interest
30 immediately before the condemnation.

(2) This subsection applies only where the damage resulting from the natural disaster has occurred within five years prior to the initiation of negotiations for or notice of intent to acquire or order to vacate the property and during the ownership of the property by the condemnee. The damage to be excluded shall include only actual physical damage to the property for which the condemnee has not received any compensation or reimbursement.

§ 703. Fair market value.

Fair market value shall be the price which would be agreed to by a willing and informed seller and buyer, taking into consideration, but not limited to, the following factors:

(1) The present use of the property and its value for that use.

(2) The highest and best reasonably available use of the property and its value for that use.

(3) The machinery, equipment and fixtures forming part of the real estate taken.

(4) Other factors as to which evidence may be offered as provided by Chapter 11 (relating to evidence).

§ 704. Effect of imminence of condemnation.

Any change in the fair market value prior to the date of condemnation which the condemnor or condemnee establishes was substantially due to the general knowledge of the imminence of condemnation, other than that due to physical deterioration of the property within the reasonable control of the condemnee, shall be disregarded in determining fair market value.

§ 705. Contiguous tracts and unity of use.

Where all or a part of several contiguous tracts in substantially identical ownership is condemned or a part of

1 several noncontiguous tracts in substantially identical
2 ownership which are used together for a unified purpose is
3 condemned, damages shall be assessed as if the tracts were one
4 parcel.

5 § 706. Effect of condemnation use on after value.

6 (a) General rule.--In determining the fair market value of
7 the remaining property after a partial taking, consideration
8 shall be given to the use to which the property condemned is to
9 be put and the damages or benefits specially affecting the
10 remaining property due to its proximity to the improvement for
11 which the property was taken.

12 (b) Future damages and general benefits.--Future damages and
13 general benefits which will affect the entire community beyond
14 the properties directly abutting the property taken shall not be
15 considered in arriving at the after value.

16 (c) Special benefits.--Special benefits to the remaining
17 property shall in no event exceed the total damages, except in
18 cases where the condemnor is authorized under existing law to
19 make special assessments for benefits.

20 (d) Partial taking.--A partial taking shall not extinguish a
21 nonconforming use unless all or a substantial portion of the
22 improvements on the property are within the area of the property
23 taken.

24 § 707. Removal of machinery, equipment or fixtures.

25 (a) Notice to condemnee.--In the event the condemnor does
26 not require for its use machinery, equipment or fixtures forming
27 part of the real estate, it shall so notify the condemnee.

28 (b) Condemnee election.--

29 (1) The condemnee may within 30 days of the notice elect
30 to remove the machinery, equipment or fixtures unless the

1 time is extended by the condemnor.

2 (2) If the condemnee so elects, the damages shall be
3 reduced by the fair market value of the machinery, equipment
4 or fixtures severed from the real estate.

5 § 708. Expenses incidental to transfer of title.

6 An acquiring agency shall, on the date of payment of the
7 purchase price of amicably acquired real property or of payment
8 or tender of estimated just compensation in a condemnation
9 proceeding to acquire real property, whichever is earlier or as
10 soon as is practicable, reimburse the owner for expenses
11 necessarily incurred for:

12 (1) Recording fees, transfer taxes and similar expenses
13 incidental to conveying the real property to the acquiring
14 agency.

15 (2) Penalty costs for prepayment for any preexisting
16 recorded mortgage entered into in good faith encumbering the
17 real property.

18 (3) The pro rata portion of real property taxes paid
19 which are allocable to a period subsequent to the date of
20 vesting title in the acquiring agency or the effective date
21 of possession of the real property by the acquiring agency,
22 whichever is earlier.

23 (4) The pro rata portion of water and sewer charges paid
24 to a taxing entity or a local authority allocable to a period
25 subsequent to the effective date of possession of the real
26 property by the acquiring agency.

27 § 709. Condemnee's costs where no declaration of taking filed.

28 Where proceedings are instituted by a condemnee under section
29 502(c) (relating to petition for appointment of viewers), a
30 judgment awarding compensation to the condemnee for the taking

1 of property shall include reimbursement of reasonable appraisal,
2 attorney and engineering fees and other costs and expenses
3 actually incurred.

4 § 710. Limited reimbursement of appraisal, attorney and
5 engineering fees.

6 (a) General rule.--The owner of any right, title or interest
7 in real property acquired or injured by an acquiring agency, who
8 is not eligible for reimbursement of fees under section 306(g)
9 (relating to preliminary objections), 308(e) (relating to
10 revocation of condemnation proceedings) or 709 (relating to
11 condemnee's costs where no declaration of taking filed), shall
12 be reimbursed in an amount not to exceed \$3,000 as a payment
13 toward reasonable expenses actually incurred for appraisal,
14 attorney and engineering fees.

15 (b) Attorney fees.--In determining reasonable attorney fees
16 under sections 306(g), 308(e) and 709, the court shall consider
17 all of the circumstances of the case, including, but not limited
18 to, time records if available.

19 § 711. Payment on account of increased mortgage costs.

20 (a) Reimbursement of owner.--Whenever the acquisition of
21 property by an acquiring agency results in the termination of an
22 installment purchase contract, mortgage or other evidence of
23 debt on the acquired property, requiring the legal or equitable
24 owner to enter into another installment purchase contract,
25 mortgage or other evidence of debt on the property purchased for
26 the same use as the acquired property, a legal or equitable
27 owner who does not qualify for a payment under section 903(a)(2)
28 (relating to replacement housing for homeowners) shall be
29 compensated for any increased interest and other debt service
30 costs which the owner is required to pay for financing the

1 acquisition of the replacement property.

2 (b) Determination of amount.--

3 (1) Compensation for any increased interest and other
4 debt service costs shall be equal to the excess in the
5 aggregate interest and other debt service costs of that
6 amount on the principal of the installment purchase contract,
7 mortgage or other evidence of debt on the replacement
8 property which is equal to the unpaid balance of the
9 installment purchase contract, mortgage or other evidence of
10 debt on the acquired property over the remaining term of the
11 installment purchase contract, mortgage or other evidence of
12 debt on the acquired property reduced to present worth.

13 (2) The discount rate to be used in reducing to present
14 worth shall be the prevailing interest rate paid on savings
15 deposits by commercial banks in the general area in which the
16 replacement property is located.

17 (3) The amount shall be paid only if the acquired
18 property was subject to an installment purchase contract or
19 encumbered by a bona fide mortgage or other evidence of debt
20 secured by the property which was a valid lien on the
21 property for not less than 180 days prior to the initiation
22 of negotiations for the acquisition of the property.

23 § 712. Loss of rentals because of imminence of condemnation.

24 (a) General rule.--The condemnee shall be entitled to
25 receive as special damages compensation for any loss, suffered
26 prior to the date of taking, caused by a reduction of income
27 from rentals which the condemnee establishes was substantially
28 due to the general knowledge of the imminence of condemnation,
29 other than that due to physical deterioration of the property
30 within the reasonable control of the condemnee.

1 (b) Applicability.--This section applies only to losses of
2 rental income suffered following a 60-day period subsequent to
3 written notice from the condemnee to the condemnor that losses
4 of rental income are being suffered. Total damages under this
5 section shall not exceed \$24,000.

6 § 713. Delay compensation.

7 (a) General rule.--Compensation for delay in payment shall
8 be paid at an annual rate equal to the prime rate as listed in
9 the first edition of the Wall Street Journal published in the
10 year, plus 1%, not compounded, from:

11 (1) the date of relinquishment of possession of the
12 condemned property by the condemnee; or

13 (2) if possession is not required to effectuate
14 condemnation, the date of condemnation.

15 (b) Exclusion.--

16 (1) No compensation for delay shall be payable with
17 respect to funds paid on account or by deposit in court after
18 the date of the payment or deposit.

19 (2) During the period the condemnee remains in
20 possession after the condemnation:

21 (i) the condemnee shall not be entitled to
22 compensation for delay in payment; and

23 (ii) the condemnor shall not be entitled to rent or
24 other charges for use and occupancy of the condemned
25 property by the condemnee.

26 (c) Award or judgment.--Compensation for delay shall not be
27 included by the viewers or the court or jury on appeal as part
28 of the award or verdict but shall, at the time of payment of the
29 award or judgment, be calculated under subsection (a) and added
30 to the award or judgment. There shall be no further or

1 additional payment of interest on the award or verdict.

2 § 714. Consequential damages.

3 All condemnors, including the Commonwealth, shall be liable
4 for damages to property abutting the area of an improvement
5 resulting from change of grade of a road or highway, permanent
6 interference with access or injury to surface support, whether
7 or not any property is taken.

8 § 715. Damages for vacation of roads.

9 Whenever a public road, street or highway is vacated, the
10 affected owners may recover damages for any injuries sustained,
11 even though no land is actually taken.

12 § 716. Attempted avoidance of monetary just compensation.

13 Where a condemnor attempts to avoid the payment of monetary
14 just compensation to which the condemnee otherwise would be
15 entitled by use of a substitute for monetary compensation and
16 the condemnee incurs expenses, including appraisal, attorney and
17 engineering fees, in securing an adjudication that the
18 substitute is not adequate, the condemnee shall be reimbursed by
19 the condemnor for all these expenses incurred.

20 CHAPTER 9

21 SPECIAL DAMAGES FOR DISPLACEMENT

22 Sec.

23 901. Definitions.

24 902. Moving and related expenses of displaced persons.

25 903. Replacement housing for homeowners.

26 904. Replacement housing for tenants and others.

27 905. Housing replacement authorization.

28 906. Regulations.

29 907. Payments not to be considered as income or resources.

30 § 901. Definitions.

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

4 "Acquiring agency." The term includes an agency or person
5 that is carrying out a program or project to the extent that the
6 agency or person causes a person to become a displaced person.

7 § 902. Moving and related expenses of displaced persons.

8 (a) Reasonable expenses incurred.--

9 (1) A displaced person shall be reimbursed for
10 reasonable expenses incurred in moving the displaced person
11 and the person's family and for the removal, transportation
12 and reinstallation of personal property.

13 (i) Receipts shall be prima facie evidence of
14 incurred reasonable moving expenses.

15 (ii) Any displaced person who is displaced from a
16 dwelling may elect to receive, in lieu of reimbursement
17 of incurred moving expenses, a moving expense and
18 dislocation allowance determined according to a schedule
19 established by the acquiring agency.

20 (2) As used in this subsection, the following words and
21 phrases shall have the meanings given to them in this
22 paragraph:

23 "Displaced person." Includes a person who moves from
24 real property or moves personal property:

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

30 (ii) as a direct result of rehabilitation,

1 demolition or other displacing activity of other real
2 property on which such person conducts a business or a
3 farm operation under a program or project undertaken by
4 an acquiring agency if the displacement is permanent.

5 (b) Damages for dislocation of business or farm operation.--

6 A displaced person who is displaced from a place of business or
7 from a farm operation shall be entitled, in addition to any
8 payment received under subsection (a), to damages for
9 dislocation of business or farm operation as follows:

10 (1) Damages equal to the value in place of the personal
11 property which:

12 (i) is not moved because of the discontinuance of
13 the business or farm operation or the unavailability of a
14 comparable site for relocation; or

15 (ii) cannot be moved without substantially
16 destroying or diminishing its utility in the relocated
17 business or farm operation.

18 (2) (i) In lieu of the damages provided in paragraph
19 (1), at the option of the displaced person, an amount not
20 to exceed \$12,000 to be determined by taking 50% of the
21 difference, if any, between the original cost of the
22 personal property to the displaced person or the
23 replacement cost of equivalent property at the time of
24 sale, whichever is lower, and the net proceeds obtained
25 by the displaced person at a commercially reasonable
26 private or public sale.

27 (ii) If this option is selected, the displaced
28 person shall give the acquiring agency not less than 60
29 days' notice in writing of intention to seek damages
30 under this option.

1 (iii) The displaced person shall not, directly or
2 indirectly, purchase any of the personal property at
3 private sale. Inventory shall be paid for under this
4 option only if the business is not relocated.

5 (3) Actual reasonable expenses in searching for a
6 replacement business or farm.

7 (4) Actual reasonable expenses necessary to reestablish
8 a displaced farm, nonprofit organization or small business at
9 its new site, but not to exceed \$12,000. Sites occupied
10 solely by outdoor advertising signs, displays or devices do
11 not qualify for this benefit.

12 (5) (i) In addition to damages under subsection (a) and
13 paragraphs (1), (2), (3) or (4), damages in an amount
14 equal to the average annual net earnings but not more
15 than \$60,000 nor less than \$3,000.

16 (ii) Payment shall be made only if the business
17 cannot be relocated without a substantial loss of profits
18 and if the business is not part of a commercial
19 enterprise having more than three other entities which
20 are not being acquired by the acquiring agency and which
21 are under the same ownership and are engaged in the same
22 or similar business activities.

23 (iii) A person whose sole business at a dwelling
24 from which the person is displaced is the rental of such
25 property to others shall not qualify for a payment under
26 this paragraph.

27 (iv) As used in this paragraph, the term "average
28 annual net earnings" means one-half of any net earnings
29 of the business or farm operation before Federal, State
30 and local income taxes during the two taxable years

1 immediately preceding the taxable year in which the
2 business or farm operation moves from the real property
3 acquired for a project and includes any compensation paid
4 by the business or farm operation to the owner, a spouse
5 or dependents during this period. The regulations
6 promulgated under section 906 (relating to regulations)
7 may designate another period determined to be more
8 equitable for establishing average annual net earnings as
9 long as the designated period does not produce a lesser
10 payment than would be produced by use of the last two
11 taxable years.

12 § 903. Replacement housing for homeowners.

13 (a) Additional payments to certain homeowners.--

14 (1) In addition to payments otherwise authorized, the
15 acquiring agency shall make an additional payment not in
16 excess of \$27,000 to any displaced person who is displaced
17 from a dwelling actually owned and occupied by the displaced
18 person for not less than 180 days prior to the initiation of
19 negotiations for the acquisition of the property or the
20 receipt of written notice from the acquiring agency of intent
21 to acquire or order to vacate.

22 (2) The additional payment shall include the following
23 elements:

24 (i) The amount, if any, which, when added to the
25 acquisition cost of the acquired dwelling, equals the
26 reasonable cost of a comparable replacement dwelling
27 which is available to the displaced person on the private
28 market.

29 (ii) The amount, if any, which will compensate the
30 displaced person for any increased interest and other

1 debt service costs which the person is required to pay
2 for financing the acquisition of any comparable
3 replacement dwelling. The amount shall be paid only if
4 the acquired dwelling was subject to an installment
5 purchase contract or encumbered by a bona fide
6 installment purchase contract, mortgage or other evidence
7 of debt secured by the dwelling which was a valid lien on
8 such dwelling for not less than 180 days immediately
9 prior to the initiation of negotiations for the
10 acquisition of such dwelling.

11 (iii) Reasonable expenses incurred by the displaced
12 person for evidence of title, recording and attorney
13 fees, real property transfer taxes and other closing and
14 related costs incident to the purchase and financing of
15 the replacement dwelling, but not including prepaid
16 expenses.

17 (b) One-year time period for purchase of replacement
18 dwelling.--

19 (1) The additional payment authorized by this section
20 shall be made only to a displaced person who purchases and
21 occupies a replacement dwelling, which is decent, safe,
22 sanitary and adequate to accommodate the displaced person,
23 not later than the end of the one-year period beginning on
24 the date on which the person receives final payment of full
25 acquisition cost for the acquired dwelling or on the date on
26 which the person moves from the acquired dwelling, whichever
27 is later. Regulations issued under section 906 (relating to
28 regulations) may prescribe situations when the one-year
29 period may be extended.

30 (2) If the period is extended, the payment under this

1 section shall be based on the costs of relocating the person
2 to a comparable replacement dwelling within one year of the
3 date on which the person received final payment of full
4 acquisition costs for the acquired dwelling.

5 (c) Right of election.--The person entitled under this
6 section shall have the right to elect the benefits available
7 under section 904 (relating to replacement housing for tenants
8 and others) in lieu of those provided by this section.

9 § 904. Replacement housing for tenants and others.

10 (a) Payment to certain displaced persons.--

11 (1) In addition to amounts otherwise authorized, an
12 acquiring agency shall make a payment to or for any displaced
13 person displaced from a dwelling not eligible to receive a
14 payment under section 903 (relating to replacement housing
15 for homeowners), which dwelling was actually and lawfully
16 occupied by the displaced person for not less than 90 days
17 prior to the initiation of negotiations for acquisition of
18 the dwelling or the receipt of written notice from the
19 acquiring agency of intent to acquire or order to vacate. The
20 payment shall be the amount determined to be necessary to
21 enable the displaced person to lease a comparable replacement
22 dwelling for a period not to exceed 42 months. The amount
23 shall be the additional amount, if any, over the actual
24 rental or fair rental value of the acquired dwelling, but not
25 more than \$6,300.

26 (2) Any person eligible for a payment under paragraph
27 (1) may elect to apply the payment to a down payment on, and
28 other incidental expenses pursuant to, the purchase of a
29 decent, safe and sanitary replacement dwelling.

30 (b) Condition of payment.--The additional payment authorized

1 by this section shall be made only to a displaced person who
2 occupies a replacement dwelling which is decent, safe and
3 sanitary.

4 § 905. Housing replacement authorization.

5 (a) Short title of section.--This section shall be known and
6 may be cited as the Housing Replacement Authorization Act.

7 (b) Housing replacements by acquiring agency as last
8 resort.--

9 (1) If comparable replacement sale or rental housing is
10 not available in the neighborhood or community in which a
11 program or project is located and this housing cannot
12 otherwise be made available, the acquiring agency may
13 purchase, construct, reconstruct or otherwise provide
14 replacement housing by use of funds authorized for the
15 program or project. For this purpose, the acquiring agency
16 may exercise its power of eminent domain to acquire property
17 in fee simple or any lesser estate as it deems advisable.

18 (2) Replacement housing provided under this section may
19 be sold, leased or otherwise disposed of by the acquiring
20 agency, for or without consideration, to displaced persons or
21 to nonprofit, limited dividend or cooperative organizations
22 or public bodies, on terms and conditions as the acquiring
23 agency deems necessary and proper to effect the relocation of
24 persons displaced by a program or project.

25 (3) The acquiring agency may contract with other public
26 agencies or any person for the financing, planning,
27 acquisition, development, construction, management, sale,
28 lease or other disposition of replacement housing provided
29 under this section.

30 (c) Planning and other preliminary expenses for replacement

1 housing.--

2 (1) A governmental acquiring agency may make loans and
3 grants to nonprofit, limited dividend or cooperative
4 organizations or public bodies for necessary and reasonable
5 expenses, prior to construction, for planning and obtaining
6 mortgage financing for the rehabilitation or construction of
7 housing for these displaced persons.

8 (2) The loans and grants shall be made prior to the
9 availability of financing for items such as preliminary
10 surveys and analyses of market needs, preliminary site
11 engineering, preliminary architectural fees, legal, appraisal
12 and organizational fees, site acquisition, application and
13 mortgage commitment fees, construction loan fees and
14 discounts and similar items.

15 (3) Loans to an organization established for profit
16 shall bear interest at market rate determined by the
17 acquiring agency. All other loans and grants shall be without
18 interest.

19 (4) The acquiring agency shall require repayment of
20 loans and grants made under this section, under any terms and
21 conditions it requires, upon completion of the project or
22 sooner. However, except in the case of a loan to an
23 organization established for profit, the acquiring agency may
24 cancel any part or all of a loan and may cancel the repayment
25 provisions of a grant if it determines that a permanent loan
26 to finance the rehabilitation or the construction of the
27 housing cannot be obtained in an amount adequate for
28 repayment of the loan.

29 (d) Availability of funds.--Funds, including motor license
30 funds and other special funds, appropriated or otherwise

1 available to any acquiring agency for a program or project,
2 which results in the displacement of any person, shall be
3 available also for obligations and expenditures to carry out the
4 provisions of this section.

5 § 906. Regulations.

6 The General Counsel may promulgate regulations necessary to
7 assure that:

8 (1) The payments authorized by this chapter shall be
9 made in a manner which is fair and reasonable and as uniform
10 as practicable.

11 (2) A displaced person who makes proper application for
12 a payment authorized for that person by this chapter shall be
13 paid promptly after a move or, in hardship cases, be paid in
14 advance.

15 (3) Any person aggrieved by a determination as to
16 eligibility for a payment authorized by this chapter or the
17 amount of a payment may elect to have the application
18 reviewed by the head of the acquiring agency.

19 (4) Each displaced person shall receive the maximum
20 payments authorized by this chapter.

21 (5) Each acquiring agency may obtain the maximum Federal
22 reimbursement for relocation payment and assistance costs
23 authorized by any Federal law.

24 § 907. Payments not to be considered as income or resources.

25 No payment received by a displaced person under this chapter
26 shall be considered as income or resources for the purpose of
27 determining the eligibility or extent of eligibility of any
28 person for assistance under any State law or for the purposes of
29 the State or local personal income or wage tax laws, corporation
30 tax laws or other tax laws. No payments under this chapter

1 except those provided for in section 902(b) (relating to moving
2 and related expenses of displaced persons) shall be subject to
3 attachment or execution at law or in equity.

4 CHAPTER 11

5 EVIDENCE

6 Sec.

7 1101. Viewers' hearing.

8 1102. Condemnor's evidence before viewers.

9 1103. Trial in court on appeal.

10 1104. Competency of condemnee as witness.

11 1105. Evidence generally.

12 1106. Use of condemned property.

13 § 1101. Viewers' hearing.

14 The viewers may hear testimony, receive evidence and make
15 independent investigation as they deem appropriate, without
16 being bound by formal rules of evidence.

17 § 1102. Condemnor's evidence before viewers.

18 The condemnor shall, at the hearing before the viewers,
19 present expert testimony of the amount of damages suffered by
20 the condemnee.

21 § 1103. Trial in court on appeal.

22 At the trial in court on appeal:

23 (1) Either party may, as a matter of right, have the
24 jury or the judge in a trial without a jury view the property
25 involved, notwithstanding that structures have been
26 demolished or the site altered, and the view shall be
27 evidentiary. If the trial is with a jury, the trial judge
28 shall accompany the jury on the view.

29 (2) If any valuation expert who has not previously
30 testified before the viewers is to testify, the party calling

1 the expert must disclose the expert's name and serve a
2 statement of the valuation of the property before and after
3 the condemnation and the expert's opinion of the highest and
4 best use of the property before the condemnation and of any
5 part remaining after the condemnation on the opposing party
6 at least ten days before the commencement of the trial.

7 (3) The report of the viewers and the amount of their
8 award shall not be admissible as evidence.

9 § 1104. Competency of condemnee as witness.

10 The condemnee or an officer of a corporate condemnee, without
11 further qualification, may testify as to just compensation
12 without compliance with the provisions of section 1103(2)
13 (relating to trial in court on appeal).

14 § 1105. Evidence generally.

15 At the hearing before the viewers or at the trial in court on
16 appeal:

17 (1) A qualified valuation expert may, on direct or
18 cross-examination, state any or all facts and data which the
19 expert considered in arriving at an opinion, whether or not
20 the expert has personal knowledge of the facts and data; and
21 a statement of the facts and data and the sources of
22 information shall be subject to impeachment and rebuttal.

23 (2) A qualified valuation expert may, on direct or
24 cross-examination, testify in detail as to the valuation of
25 the property on a comparable market value, reproduction cost
26 or capitalization basis, which testimony may include, but
27 shall not be limited to, the following:

28 (i) The price and other terms of any sale or
29 contract to sell the condemned property or comparable
30 property made within a reasonable time before or after

1 the date of condemnation.

2 (ii) The rent reserved and other terms of any lease
3 of the condemned property or comparable property which
4 was in effect within a reasonable time before or after
5 the date of condemnation.

6 (iii) The capitalization of the net rental or
7 reasonable net rental value of the condemned property,
8 including reasonable net rental values customarily
9 determined by a percentage or other measurable portion of
10 gross sales or gross income of a business which may
11 reasonably be conducted on the premises, as distinguished
12 from the capitalized value of the income or profits
13 attributable to any business conducted on the premises of
14 the condemned property.

15 (iv) The value of the land together with the cost of
16 replacing or reproducing the existing improvements less
17 depreciation or obsolescence.

18 (v) The cost of adjustments and alterations to any
19 remaining property made necessary or reasonably required
20 by the condemnation.

21 (3) Either party may show the difference between the
22 condition of the property and of the immediate neighborhood
23 at the time of condemnation and at the time of view, either
24 by the viewers or jury.

25 (4) The assessed valuations of property condemned shall
26 not be admissible in evidence for any purpose.

27 (5) A qualified valuation expert may testify that the
28 expert has relied upon the written report of another expert
29 as to the cost of adjustments and alterations to any
30 remaining property made necessary or reasonably required by

1 the condemnation, but only if a copy of the written report
2 has been furnished to the opposing party ten days in advance
3 of the trial.

4 (6) If otherwise qualified, a valuation expert shall not
5 be disqualified by reason of not having made sales of
6 property or not having examined the condemned property prior
7 to the condemnation if the expert can show he has acquired
8 knowledge of its condition at the time of the condemnation.

9 § 1106. Use of condemned property.

10 In arriving at a valuation of the remaining part of the
11 property in a partial condemnation, an expert witness may
12 consider and testify to the use to which the condemned property
13 is intended to be put by the condemnor.

14 Section 2. Title 42 is amended by adding a section to read:

15 § 702.1. Expedited appeals in eminent domain proceedings.

16 When a court in an eminent domain proceeding rules on
17 preliminary objections to a declaration of taking and is of the
18 opinion that the matters involved are of immediate public
19 importance, it shall, upon request of a party, so state in the
20 order. If an appeal is taken from that order, the appellate
21 court shall give priority to the determination of the issues
22 raised by the appeal.

23 Section 3. Sections 5526(4), 5527, 5530(a)(3) and 6121 of
24 Title 42 are amended to read:

25 § 5526. Five year limitation.

26 The following actions and proceedings must be commenced
27 within five years:

28 * * *

29 [(4) A proceeding in inverse condemnation, if property
30 has been injured but no part thereof has been taken, or if

the condemnor has made payment in accordance with section 407(a) or (b) (relating to possession and payment of compensation) of the act of June 22, 1964 (Sp.Sess., P.L.84, No.6), known as the "Eminent Domain Code."]

§ 5527. Six year limitation.

(a) Eminent domain.--

(1) (i) If a condemnor has filed a declaration of taking, a petition for the appointment of viewers for the assessment of damages under Title 26 (relating to eminent domain) must be filed within six years from the date on which the condemnor first made payment in accordance with 26 Pa.C.S. § 307(a) or (b) (relating to possession, right of entry and payment of compensation).

(ii) If payment is not required to be made under 26 Pa.C.S. § 307(a) to obtain possession, a petition for the appointment of viewers must be filed within six years of the filing of the declaration of taking.

(2) If the condemnor has not filed a declaration of taking, a petition for the appointment of viewers for the assessment of damages under Title 26 must be filed within six years from the date on which the asserted taking, injury or destruction of the property occurred or could reasonably have been discovered by the condemnee.

(b) Other civil action or proceeding.--Any civil action or proceeding which is neither subject to another limitation specified in this subchapter nor excluded from the application of a period of limitation by section 5531 (relating to no limitation) must be commenced within six years.

§ 5530. Twenty-one year limitation.

(a) General rule.--The following actions and proceedings

1 must be commenced within 21 years:

2 * * *

3 [(3) A proceeding in inverse condemnation, if property
4 has been taken and the condemnor has not made payment in
5 accordance with section 407(a) or (b) (relating to possession
6 and payment of compensation) of the act of June 22, 1964
7 (Sp.Sess., P.L.84, No.6), known as the "Eminent Domain
8 Code."]

9 * * *

10 § 6121. Eminent domain matters.

11 Eminent domain matters shall be governed by the provisions of
12 [Article VII (relating to evidence) of the act of June 22, 1964
13 (Sp.Sess., P.L.84, No.6), known as the "Eminent Domain Code,"]
14 26 Pa.C.S. Ch. 11 (relating to evidence) in addition to the
15 provisions of this chapter.

16 Section 4. Section 1505 of Title 51 is amended to read:

17 § 1505. Donation of land by political subdivisions.

18 It shall be lawful for any county, city, borough, town or
19 township to acquire by purchase or by gift, or by the right of
20 eminent domain, any land for the use of the Pennsylvania
21 National Guard, and to convey such lands so acquired to the
22 Commonwealth of Pennsylvania. The proceedings for the
23 condemnation of lands under the provisions of this chapter and
24 for the assessment of damages for the property taken, injured or
25 destroyed shall be taken in the same manner as is now provided
26 by [the act of June 22, 1964 (Sp.Sess., P.L.84, No.6), known as
27 the "Eminent Domain Code."] Title 26 (relating to eminent
28 domain).

29 Section 5. Repeals are as follows:

30 (1) The General Assembly declares that the repeal under

1 paragraph (2) is necessary to effectuate the amendment or
2 addition of 26 Pa.C.S. Chs. 1, 3, 5, 7, 9 and 11 and 42
3 Pa.C.S. §§ 702.1, 5526(4), 5527, 5530(a)(3) and 6121.

4 (2) The following acts and parts of acts are repealed:

5 Section 2003(e)(2)(i)(B) of the act of April 9, 1929
6 (P.L.177, No.175), known as The Administrative Code of
7 1929.

8 Act of June 22, 1964 (Sp.Sess., P.L.84, No.6), known
9 as the Eminent Domain Code.

10 Act of December 29, 1971 (P.L.646, No.170), entitled
11 "An act to allow for the provision of relocation
12 assistance and the payment of relocation benefits under
13 federally assisted programs to persons who would not
14 qualify for such payments under the Eminent Domain Code
15 of the Commonwealth of Pennsylvania."

16 Act of December 6, 1972 (P.L.1410, No.304), known as
17 the Housing Replacement Authorization Act.

18 As much of section 302(a) of the act of December 21,
19 1988 (P.L.1444, No.177), known as the General Association
20 Act of 1988, as reads as follows: "A court may issue a
21 writ of possession to the condemnor prior to the
22 disposition of preliminary objections which challenge the
23 validity of a condemnation of rights-of-way or easements
24 for occupation by water, electric, gas, oil and/or
25 petroleum products, telephone or telegraph lines used
26 directly or indirectly in furnishing service to the
27 public, and if it shall be determined finally that the
28 condemnation is invalid in whole or in part, the affected
29 owners may recover damages for any injuries sustained
30 thereby and shall be entitled to such equitable relief as

1 may be appropriate in the circumstances."

2 (3) Except as to the measure of damages prescribed by 26
3 Pa.C.S. Ch. 7, nothing in this act shall repeal, modify or
4 supplant Articles XXVII, XXVIII and XXIX of the act of July
5 28, 1953 (P.L.723, No.230), known as the Second Class County
6 Code, as they are applicable to procedures in the court of
7 common pleas with respect to bridges, viaducts, culverts and
8 roads.

9 (4) The following provisions are saved from repeal:

10 Section 2003(e)(7) of the act of April 9, 1929
11 (P.L.177, No.175), known as The Administrative Code of
12 1929.

13 15 Pa.C.S. § 1511(g)(2).

14 (5) All other acts and parts of acts are repealed
15 insofar as they are inconsistent with this act.
16 Section 6. Applicability shall be as follows:

17 (1) Except as provided in paragraph (2) or (3), this act
18 shall apply to all condemnations effected on or after the
19 effective date of this section.

20 (2) The addition of 26 Pa.C.S. § 713(a) shall apply to
21 all periods of time after the effective date of this section
22 with respect to condemnations effected prior to the effective
23 date of this section.

24 (3) The amendments of 42 Pa.C.S. §§ 5526(4), 5527 and
25 5530(a)(3) shall apply only to causes of action which accrue
26 after the effective date of this section.

27 Section 7. This act shall take effect in 60 days.