TABLE OF CONTENTS

TITLE 26
EMINENT DOMAIN

Chapter 1. General Provisions

§ 101. Short title of title.
§ 102. Application of title.
§ 103. Definitions.

Chapter 2. Limitations on Use of Eminent Domain

§ 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.
§ 208. Eminent domain of land subject to conservation easement.

Chapter 3. Procedure to Condemn

§ 301. Venue.
§ 302. Declaration of taking.
§ 303. Security required.
§ 304. Recording notice of condemnation.
§ 305. Notice to condemnee.
§ 306. Preliminary objections.
§ 307. Possession, right of entry and payment of compensation.
§ 308. Revocation of condemnation proceedings.
§ 309. Right to enter property prior to condemnation.
§ 310. Abandonment of project.

Chapter 5. Procedure for Determining Damages

§ 501. Agreement as to damages.
§ 502. Petition for appointment of viewers.
§ 503. View.
§ 504. Appointment of viewers.
§ 505. Service of notice of view and hearing.
§ 506. Additional condemnees, mortgagees and intervention.
§ 507. Joint claims.
§ 508. Appointment of trustee or guardian ad litem.
§ 509. Furnishing of plans to viewers.
§ 510. Powers of viewers.
§ 511. Administrative matters for viewers' hearings.
§ 512. Report of viewers.
§ 513. Disagreement.
§ 514. Filing of report of viewers.
§ 515. Reports.
§ 516. Right of appeal.
§ 517. Appeals.
§ 518. Disposition of appeal.
§ 519. Allocation of damages.
§ 520. Waiver of viewers' proceedings and termination by stipulation.
§ 521. Liens and distribution of damages.
§ 522. Payment into court and distribution.

Chapter 7. Just Compensation and Measure of Damages

§ 701. Just compensation; other damages.
§ 702. Measure of damages.
§ 703. Fair market value.
§ 704. Effect of imminence of condemnation.
§ 705. Contiguous tracts and unity of use.
§ 706. Effect of condemnation use on after value.
§ 707. Removal of machinery, equipment or fixtures.
§ 708. Expenses incidental to transfer of title.
§ 709. Condemnee's costs where no declaration of taking filed.
§ 710. Limited reimbursement of appraisal, attorney and engineering fees.
§ 711. Payment on account of increased mortgage costs.
§ 712. Loss of rentals because of imminence of condemnation.
§ 713. Delay compensation.
§ 714. Consequential damages.
§ 715. Damages for vacation of roads.
§ 716. Attempted avoidance of monetary just compensation.

Chapter 9. Special Damages for Displacement

§ 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.

Chapter 11. Evidence

§ 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.

TITLE 26
EMINENT DOMAIN

Chapter
1. General Provisions
2. Limitations on Use of Eminent Domain
3. Procedure to Condemn
5. Procedure for Determining Damages
7. Just Compensation and Measure of Damages
9. Special Damages for Displacement
11. Evidence

Enactment. Unless otherwise noted, the provisions of Title 26 were added May 4, 2006, P.L.112, No.34, effective in 120 days.

CHAPTER 1
GENERAL PROVISIONS

Sec.
101. Short title of title.
102. Application of title.

Enactment. Chapter 1 was added May 4, 2006, P.L.112, No.34, effective in 120 days.

§ 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.

§ 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.

"Comparable replacement dwelling." A dwelling that is:

(1) Decent, safe and sanitary.

(2) Adequate in size to accommodate the occupants.

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

(4) Functionally equivalent.

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

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

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

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

"Condemnor." The acquiring agency, including the Commonwealth, that takes, injures or destroys property by authority of law for a public purpose.

"Court." The court of common pleas.

"Displaced person."

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

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

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

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

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

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

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

(ii) In any case in which the acquiring agency acquires real property for a program or project, a person, other than a person that was an occupant of the 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) (relating to moving and related expenses of displaced persons).

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

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.
208. Eminent domain of land subject to conservation easement.

Enactment. Chapter 2 was added May 4, 2006, P.L.112, No.34, effective in 120 days and May 4, 2006, P.L.148, No.35, effective in 120 days.

§ 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 $10,000.

"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.

"Common carrier." Any and all persons or corporations holding out, offering or undertaking, directly or indirectly, service for compensation to the public for the transportation of passengers or property, or both, or any class of passengers or property, by, through, over, above or under land, water or air, and shall include forwarders, but shall not include contract carriers by motor vehicles, or brokers, or any bona fide cooperative association transporting property exclusively for the members of such association on a nonprofit basis.

"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).

"Conservation easement." As defined under section 3 of the act of June 22, 2001 (P.L.390, No.29), known as the Conservation and Preservation Easements Act.

"Eminent domain." The power of the Commonwealth to take private property for public use in return for just compensation.

"Open space benefits." The benefits to the residents of this Commonwealth and its local government units which result from the preservation or restriction of the use of selected

predominantly undeveloped open spaces or areas, including, but not limited to:

(1) the protection and conservation of water resources and watersheds, by appropriate means, including, but not limited to, preserving the natural cover, preventing floods and soil erosion, protecting water quality and replenishing surface and ground water supplies;

(2) the protection and conservation of forests and land being used to produce timber crops;

(3) the protection and conservation of farmland;

(4) the protection of existing or planned park, recreation or conservation sites;

(5) the protection and conservation of natural or scenic resources, including, but not limited to, soils, beaches, streams, flood plains, steep slopes or marshes;

(6) the protection of scenic areas for public visual enjoyment from public rights of way;

(7) the preservation of sites of historic, geologic or botanic interest; and

(8) the promotion of sound, cohesive and efficient land development by preserving open spaces between communities.

"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. (June 24, 2018, P.L.345, No.45, eff. imd.)

2018 Amendment. Act 45 added the defs. of "conservation easement" and "open space benefits." See sections 3 and 4(1) in the appendix to this title for special provisions relating to severability and applicability.

§ 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 December 31, 2012.

(5) The exercise of eminent domain by a home rule county of the second class A, or a municipality located therein, in areas that were certified, on or before the effective date of this chapter, as blighted under section 2 of the Urban Redevelopment Law. This paragraph shall expire December 31, 2012.

(6) The exercise of eminent domain within a home rule municipality by a county of the second class A in areas that were certified, on or before the effective date of this chapter, as blighted under section 2 of the Urban Redevelopment Law. This paragraph shall expire December 31, 2012.

(c) Construction.--Nothing in this chapter shall be deemed to expand or enlarge the power of a condemnor to utilize eminent domain.

§ 204. Eminent domain for private business prohibited.

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

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

(1) (i) the condemnee consents to the use of the property for private enterprise; or

(ii) the condemnee does not file or does not prevail on preliminary objection filed to a declaration of taking for the acquisition of condemnee's property.

(2) The property is taken by, to the extent the party has the power of eminent domain, transferred or leased to any of the following:

(i) A public utility or railroad as defined in 66 Pa.C.S. § 102 (relating to definitions).

(ii) A common carrier.

(iii) A private enterprise that occupies an incidental area within a public project, such as retail space, office space, restaurant and food service facility or similar incidental area.

(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.

This paragraph does not include activities and structures for which nuisance actions are prohibited under section 4 of the act of June 10, 1982 (P.L.454, No.133), referred to as the Right-to-Farm Law.

(4) The property taken is abandoned.

(5) The property taken meets the requirements of section 205 (relating to blight).

(6) The property taken is acquired by a condemnor pursuant to section 12.1 of the act of May 24, 1945 (P.L.991, No.385), known as the Urban Redevelopment Law.

(7) The property taken is acquired for the development of low-income and mixed-income housing projects pursuant to the act of May 28, 1937 (P.L.955, No.265), known as the Housing Authorities Law, or to be developed using financial incentives available for the development of low-income and mixed-income housing projects under:

(i) section 42 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 42);

(ii) the Housing and Community Development Act of 1974 (Public Law 93-383, 88 Stat. 633);

(iii) the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625, 42 U.S.C. § 12701 et seq.);

(iv) 53 Pa.C.S. Ch. 60 (relating to optional affordable housing funding);

(v) the Brownfields for Housing and Redevelopment Assistance programs of the Department of Community and Economic Development;

(vi) the Homeownership Choice Program and the PennHOMES 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.

Cross References. Section 204 is referred to in section 207 of this title.

§ 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 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;

(iv) excavation; or

(v) unsafe fence or structure.

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

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

(5) A structure from which the utilities, plumbing, heating, sewerage or other facilities have been disconnected,

destroyed, removed or rendered ineffective so that the property is unfit for its intended use.

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

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

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

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

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

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

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

(10) A property which has defective or unusual conditions of title or no known owners, rendering title unmarketable.

(11) A property which has environmentally hazardous conditions, solid waste pollution or contamination in a building or on the land which poses a direct and immediate threat to the health, safety and welfare of the community.

(12) A property having three or more of the following characteristics:

(i) has unsafe or hazardous conditions that do not meet current use, occupancy or fire codes;

(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.

Cross References. Section 205 is referred to in sections 204, 207, 208 of this title.

§ 206. Extraterritorial takings.

(a) General rule.--Except as set forth in subsection (b), 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.

(b) Exceptions.--This section shall not apply to any of the following:

(1) A school district which exercises eminent domain authority against property located within its geographic boundaries.

(2) An authority formed under 53 Pa.C.S. Ch. 56 (relating to municipal authorities) which exercises eminent domain authority against property located within its geographic boundaries.

(3) The exercise of eminent domain authority under 74 Pa.C.S. § 5920 (relating to acquisition of air rights).

Cross References. Section 206 is referred to sections 2009, 2021, 2411, 2441 of Title 8 (Boroughs and Incorporated Towns); sections 12409, 13206, 13240, 13401, 14201, 144A14 of Title 11 (Cities).

§ 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 the exercise of eminent domain authority by any agency of the Commonwealth or political subdivision or municipal authority on agricultural property under section 204(b)(3) (relating to eminent domain for private business prohibited) or 205 (relating to blight). 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) Determination of blight.--The exercise of eminent domain powers based on a condition of the agricultural property shall

not be authorized under section 205 unless the Agricultural Lands Condemnation Approval Board determines the exercise is necessary to protect the health and safety of the community.

(c) Disapproval.--The Agricultural Lands Condemnation Approval Board shall disapprove the proposed condemnation if the board determines the condemnor is not authorized under this chapter to take the agricultural property by eminent domain.

§ 208. Eminent domain of land subject to conservation easement.

(a) Approval required.--Except as provided in subsection (g), no political subdivision, authority, public utility or other body having or exercising powers of eminent domain shall condemn any land subject to a conservation easement for any purpose, unless prior approval has been obtained from the orphans' court of the county in which the land is located. The condemnation approval specified by this subsection shall not be required for an underground public utility facility that does not permanently impact the open space benefits protected by the conservation easement. The condemnation approval specified by this subsection shall not be required for any public utility facility or other project that is subject to approval by a Federal agency, the necessity for the propriety and environmental effects of which has been reviewed and ratified or approved by the Pennsylvania Public Utility Commission or the Federal Energy Regulatory Commission, regardless of whether the right to establish and maintain such underground or other public utility facility is obtained by condemnation or by agreement with the owner.

(b) Determination of blight.--The exercise of eminent domain powers based on a condition of the land subject to a conservation easement shall not be authorized under section 205 (relating to blight) unless the orphans' court determines the exercise is necessary to protect the health and safety of the community.

(c) Notice.--Any condemnor wishing to condemn property, the approval for which is required under this section, shall, at least 30 days prior to taking such action, notify the orphans' court that the action is contemplated.

(d) Review.--The orphans' court shall review the proposed condemnation and approve the proposed condemnation only if the court determines there is no reasonable and prudent alternative to the utilization of the land subject to a conservation easement for the project.

(e) Findings and decisions.--The orphans' court shall render findings and decisions of the court's review under subsection (d) and shall report the findings and decisions to the proposed condemnor.

(f) Injunctions.--The orphans' court may request the Attorney General to bring an action to enjoin a condemnor from violating any provision of this section.

(g) Exceptions.--This section shall not apply to any of the following:

(1) Emergency projects where, in the discretion of the condemning entity, the taking is reasonably necessary for the protection of life or property.

(2) Condemnations by an agency of the Commonwealth for any purpose.

(June 24, 2018, P.L.345, No.45, eff. imd.)

2018 Amendment. Act 45 added section 208. See sections 3 and 4(2) in the appendix to this title for special provisions relating to severability and applicability.

CHAPTER 3
PROCEDURE TO CONDEMN

Sec.
301. Venue.
302. Declaration of taking.
303. Security required.
304. Recording notice of condemnation.
305. Notice to condemnee.
306. Preliminary objections.
307. Possession, right of entry and payment of compensation.
308. Revocation of condemnation proceedings.
309. Right to enter property prior to condemnation.
310. Abandonment of project.

Enactment. Chapter 3 was added May 4, 2006, P.L.112, No.34, effective in 120 days.

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

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

(1) The name and address of the condemnor.

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

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

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

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

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

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

(8) A statement of how just compensation has been made or secured.

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

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

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

§ 303. Security required.

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

(b) Pledge of tax revenues.--

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

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

(c) Insufficient security.--The court, upon preliminary objections of the condemnee under and within the time set forth in section 306(a) (relating to preliminary objections), may require the condemnor to give bond and security as the court deems proper if it appears to the court that the bond or power of taxation of the condemnor is insufficient security.

Cross References. Section 303 is referred to in section 302 of this title.

§ 304. Recording notice of condemnation.

(a) County of recording.--

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

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

(b) Notice and recording requirements.--

(1) The notice shall specify:

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

(ii) The date it was filed.

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

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

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

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

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

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

Cross References. Section 304 is referred to in sections 302, 308 of this title.

§ 305. Notice to condemnee.

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

(b) Service.--

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

(2) If service cannot be made in the manner set forth under paragraph (1), then service shall be made by posting a copy of the notice upon the most public part of the property and by publication of a copy of the notice, omitting the plot plan required by subsection (c)(9), one time each in one newspaper of general circulation and the legal journal, if any, published in the county.

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

(1) The caption of the case.

(2) The date of filing of the declaration of taking and the court term and number.

(3) The name of the condemnee to whom it is directed.

(4) The name and address of the condemnor.

(5) A specific reference to the statute and section under which the condemnation action is authorized.

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

(7) A brief description of the purpose of the condemnation.

(8) A statement that the condemnee's property has been condemned and a reasonable identification of the property.

(9) In the case of a partial taking, a plot plan showing the condemnee's entire property and the area taken.

(10) A statement of the nature of the title acquired.

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

(12) A statement of how just compensation has been made or secured.

(13) A statement that, if the condemnee wishes to challenge the power or the right of the condemnor to appropriate the condemned property, the sufficiency of the security, the procedure followed by the condemnor or the declaration of taking, the condemnee must file preliminary objections within 30 days after being served with notice of 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.

Cross References. Section 305 is referred to in section 310 of this title.

§ 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.

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

(f) Disposition.--

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

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

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

(g) Costs and expenses.--

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

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

Cross References. Section 306 is referred to in sections 303, 307, 308, 519, 710 of this title.

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

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

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

(ii) The condemnor shall be entitled to possession or right of entry upon an easement without the payment of or offer to pay the estimated just compensation if the condemnor has the right to assess the property for benefits.

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

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

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

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

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

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

(1) If within 60 days from the filing of the declaration of taking the condemnor has not paid just compensation as provided in subsection (a), the condemnee may tender possession or right of entry in writing, and the condemnor shall then make payment of the just compensation due the condemnee as estimated by the condemnor.

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

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

(c) Compensation without prejudice.--

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

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

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

Cross References. Section 307 is referred to in sections 302, 308, 522 of this title; section 5527 of Title 42 (Judiciary and Judicial Procedure).

§ 308. Revocation of condemnation proceedings.

(a) Declaration of relinquishment.--

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

(2) The title shall then revest in the condemnee as of the date of the filing of the declaration of taking, and all mortgages and other liens existing as of that date and not 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 notice 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.

Cross References. Section 308 is referred to in sections 519, 710 of this title.

§ 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 condemnor shall be paid by the condemnor.

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

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

§ 310. Abandonment of project.

(a) Disposition of property.--If a condemnor has condemned a fee and then abandons the purpose for which the property has been condemned, the condemnor may dispose of it by sale, lease, gift, devise or other transfer with the following restrictions:

(1) If the property is undeveloped or has not been substantially improved, it may not be disposed of within ten years after condemnation without first being offered to the condemnee at the same price paid to the condemnee by the condemnor.

(2) If the property is located outside the corporate boundaries of a county of the first or second class and is undeveloped or has not been substantially improved and was devoted to agricultural use at the time of the condemnation, it may not be disposed of within 21 years after condemnation without first being offered to the condemnee at the same price paid to the condemnee by the condemnor.

(3) If the property is undeveloped or has not been substantially improved and the offers required to be made under paragraphs (1) and (2) have not been accepted, the property shall not be disposed of by any condemnor, acquiring agency or subsequent purchaser for a nonpublic use or purpose within 21 years after condemnation. Upon petition by the condemnor, the court may permit disposal of the property in less than 21 years upon proof by a preponderance of the evidence that a change in circumstances has abrogated the original public purpose for which the property was taken.

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

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

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

"Agricultural commodity." As defined in section 2 of the act of June 10, 1982 (P.L.454, No.133), referred to as the Right-to-Farm Law.

"Agricultural use." Land which is used for the purpose of producing an agricultural commodity or is devoted to and meets the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal Government. Land containing a farmhouse or other buildings related to farming shall be deemed to be in agricultural use. The term includes a

woodlot and land which is rented to another person and used for the purpose of producing an agricultural commodity.

CHAPTER 5
PROCEDURE FOR DETERMINING DAMAGES

Sec.
501. Agreement as to damages.
502. Petition for appointment of viewers.
503. View.
504. Appointment of viewers.
505. Service of notice of view and hearing.
506. Additional condemnees, mortgagees and intervention.
507. Joint claims.
508. Appointment of trustee or guardian ad litem.
509. Furnishing of plans to viewers.
510. Powers of viewers.
511. Administrative matters for viewers' hearings.
512. Report of viewers.
513. Disagreement.
514. Filing of report of viewers.
515. Reports.
516. Right of appeal.
517. Appeals.
518. Disposition of appeal.
519. Allocation of damages.
520. Waiver of viewers' proceedings and termination by stipulation.
521. Liens and distribution of damages.
522. Payment into court and distribution.

Enactment. Chapter 5 was added May 4, 2006, P.L.112, No.34, effective in 120 days.

§ 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 payment of any part or item agreed upon.

§ 502. Petition for appointment of viewers.

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

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

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

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

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

(5) A brief description of the property acquired.

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

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

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

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

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

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

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

Cross References. Section 502 is referred to in sections 504, 709 of this title.

§ 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 requested, a certified true copy of the petition for the appointment of viewers and a copy of the court order appointing the viewers if an order has been entered. A copy of the petition and order, if entered, shall also be mailed to all mortgagees and other lienholders of record.

(c) Notice of views and hearings.--The viewers shall give notice of the time and place of all views and hearings. The

notice shall be given to all parties by not less than 30 days written notice by registered mail, return receipt requested.

(d) Preliminary objections.--

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

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

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

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

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

Cross References. Section 504 is referred to in section 510 of this title.

§ 505. Service of notice of view and hearing.

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

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

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

§ 506. Additional condemnees, mortgagees and intervention.

(a) Identification.--The condemnee, at or before the hearing at which the claim is presented, shall furnish the viewers and the condemnor with the names and addresses of all other condemnees known to the condemnee to have an interest in his property and the nature of their interests and the names and addresses of all mortgagees and lienholders of record known to the condemnee.

(b) Notice.--

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

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

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

§ 507. Joint claims.

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

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

(c) Separate hearings.--Claims for special damages under section 902 (relating to moving and related expenses of displaced persons) may be heard or tried separately.

§ 508. Appointment of trustee or guardian ad litem.

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

§ 509. Furnishing of plans to viewers.

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

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

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

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

§ 510. Powers of viewers.

(a) Proceedings.--

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

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

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

§ 511. Administrative matters for viewers' hearings.

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

(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 in one report one or more properties or claims under section 902 (relating to moving and related expenses of displaced persons) referred to them under the same or separate petitions if the properties are included in the same declaration of taking.

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

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

§ 516. Right of appeal.

(a) Extent of right.--

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

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

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

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

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

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

§ 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) All objections, other than to the amount of the award, raised by the appeal shall be determined by the court preliminarily.

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

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

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

§ 519. Allocation of damages.

(a) Severance damages.--Upon appeal from an award of viewers, the court upon the request of the plaintiff shall, after the jury or the court, if the trial is without jury, has returned its general verdict, make a specific finding and allocation of the amount of the general verdict attributable to 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.

(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 declaration of taking.

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

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

(b) Distribution of damages.--

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

(2) Notice of the filing of the petition and schedule of proposed distribution shall be given to all condemnees, mortgagees, judgment creditors and other lienholders, as shown in the proposed schedule, in any manner as the court may direct by general rule or special order.

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

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

Cross References. Section 521 is referred to in section 522 of this title.

§ 522. Payment into court and distribution.

(a) Payment into court.--

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

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

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

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

CHAPTER 7
JUST COMPENSATION AND MEASURE OF DAMAGES

Sec.

701. Just compensation; other damages.
702. Measure of damages.
703. Fair market value.

704. Effect of imminence of condemnation.
705. Contiguous tracts and unity of use.
706. Effect of condemnation use on after value.
707. Removal of machinery, equipment or fixtures.
708. Expenses incidental to transfer of title.
709. Condemnee's costs where no declaration of taking filed.
710. Limited reimbursement of appraisal, attorney and engineering fees.
711. Payment on account of increased mortgage costs.
712. Loss of rentals because of imminence of condemnation.
713. Delay compensation.
714. Consequential damages.
715. Damages for vacation of roads.
716. Attempted avoidance of monetary just compensation.

Enactment. Chapter 7 was added May 4, 2006, P.L.112, No.34, effective in 120 days.

§ 701. Just compensation; other damages.

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

Cross References. Section 701 is referred to in section 521 of this title.

§ 702. Measure of damages.

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

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

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

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

Cross References. Section 702 is referred to in section 521 of this title.

§ 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).

Cross References. Section 703 is referred to in section 521 of this title.

§ 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.

Cross References. Section 704 is referred to in section 521 of this title.

§ 705. Contiguous tracts and unity of use.

Where all or a part of several contiguous tracts in substantially identical ownership is condemned or a part of several noncontiguous tracts in substantially identical ownership which are used together for a unified purpose is condemned, damages shall be assessed as if the tracts were one parcel.

Cross References. Section 705 is referred to in section 521 of this title.

§ 706. Effect of condemnation use on after value.

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

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

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

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

Cross References. Section 706 is referred to in section 521 of this title.

§ 707. Removal of machinery, equipment or fixtures.

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

(b) Condemnee election.--

(1) The condemnee may within 30 days of the notice elect to remove the machinery, equipment or fixtures unless the time is extended by the condemnor.

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

Cross References. Section 707 is referred to in section 521 of this title.

§ 708. Expenses incidental to transfer of title.

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

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

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

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

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

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

Where proceedings are instituted by a condemnee under section 502(c) (relating to petition for appointment of viewers), a judgment awarding compensation to the condemnee for the taking of property shall include reimbursement of reasonable appraisal, attorney and engineering fees and other costs and expenses actually incurred.

Cross References. Section 709 is referred to in sections 519, 710 of this title.

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

(a) General rule.--The owner of any right, title or interest in real property acquired or injured by an acquiring agency, who is not eligible for reimbursement of fees under section 306(g) (relating to preliminary objections), 308(d) (relating to revocation of condemnation proceedings) or 709 (relating to condemnee's costs where no declaration of taking filed), shall be reimbursed in an amount not to exceed $4,000 per property, regardless of right, title or interest, as a payment toward reasonable expenses actually incurred for appraisal, attorney and engineering fees, except where the taking is for an easement related to underground piping for water or sewer infrastructure, in which case the reimbursement is limited to $1,000, regardless of right, title or interest.

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

(July 9, 2014, P.L.1037, No.120, eff. 60 days)

2014 Amendment. Act 120 amended subsec. (a).

Cross References. Section 710 is referred to in section 519 of this title.

§ 711. Payment on account of increased mortgage costs.

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

(b) Determination of amount.--

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

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

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

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

(a) General rule.--A property owner shall be entitled to receive as special damages compensation for any loss suffered prior to the date of taking caused by a reduction of income from rentals which the property owner 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 property owner.

(b) Applicability.--This section applies only to losses of rental income suffered following a 60-day period subsequent to written notice from the property owner to the acquiring agency that losses of rental income are being suffered. Claims for special damages under this section may be made by any property owner whose property is or was scheduled for condemnation, whether or not a condemnation subsequently occurs. Total damages under this section shall not exceed $30,000.

(c) Limited applicability.--Claims for special damages compensation as described in subsection (a) may be made by any property owner against any acquiring agency whether or not a condemnation subsequently occurs for any project related to a convention center in a city of the first class.

§ 713. Delay compensation.

(a) General rule.--Compensation for delay in payment shall be paid at an annual rate equal to the prime rate as listed in

the first edition of the Wall Street Journal published in the year, plus 1%, not compounded, from:

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

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

(b) Exclusion.--

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

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

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

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

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

Cross References. Section 713 is referred to in section 521 of this title.

§ 714. Consequential damages.

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

Cross References. Section 714 is referred to in section 521 of this title.

§ 715. Damages for vacation of roads.

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

Cross References. Section 715 is referred to in section 521 of this title.

§ 716. Attempted avoidance of monetary just compensation.

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

Enactment. Chapter 9 was added May 4, 2006, P.L.112, No.34, effective in 120 days.

§ 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.

Cross References. Section 901 is referred to in section 103 of this title.

§ 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.

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

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

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

(ii) as a direct result of rehabilitation, demolition or other displacing activity of other real property on which such person conducts a business or a farm operation under a program or project undertaken by an acquiring agency if the displacement is permanent.

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

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

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

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

(2) (i) In lieu of the damages provided in paragraph (1), at the option of the displaced person, an amount not to exceed $12,000 to be determined by taking 50% of the difference, if any, between the original cost of the personal property to the displaced person or the

replacement cost of equivalent property at the time of sale, whichever is lower, and the net proceeds obtained by the displaced person at a commercially reasonable private or public sale.

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

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

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

(4) Actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization or small business at its new site, but not to exceed $25,000. Sites occupied solely by outdoor advertising signs, displays or devices do not qualify for this benefit.

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

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

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

(iv) As used in this paragraph, the term "average annual net earnings" means one-half of any net earnings of the business or farm operation before Federal, State and local income taxes during the two taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for a project and includes any compensation paid by the business or farm operation to the owner, a spouse or dependents during this period. The regulations promulgated under section 906 (relating to regulations) may designate another period determined to be more equitable for establishing average annual net earnings as long as the designated period does not produce a lesser payment than would be produced by use of the last two taxable years.

(Dec. 20, 2015, P.L.494, No.88, eff. imd.)

2015 Amendment. Act 88 amended subsec. (b)(4).

Cross References. Section 902 is referred to in sections 103, 507, 515, 521, 907 of this title.

§ 903. Replacement housing for homeowners.

(a) Additional payments to certain homeowners.--

(1) In addition to payments otherwise authorized, the acquiring agency shall make an additional payment not in excess of $31,000 to any displaced person who is displaced from a dwelling actually owned and occupied by the displaced person for not less than 90 days prior to the initiation of negotiations for the acquisition of the property or the

receipt of written notice from the acquiring agency of intent to acquire or order to vacate.

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

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

(ii) The amount, if any, which will compensate the displaced person for any increased interest and other debt service costs which the person is required to pay for financing the acquisition of any comparable replacement dwelling. The amount shall be paid only if the acquired dwelling was subject to an installment purchase contract or encumbered by a bona fide installment purchase contract, mortgage or other evidence of debt secured by the dwelling which was a valid lien on such dwelling for not less than 180 days immediately prior to the initiation of negotiations for the acquisition of such dwelling.

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

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

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

(2) If the period is extended, the payment under this section shall be based on the costs of relocating the person to a comparable replacement dwelling within one year of the date on which the person received final payment of full acquisition costs for the acquired dwelling.

(c) Right of election.--The person entitled under this section shall have the right to elect the benefits available under section 904 (relating to replacement housing for tenants and others) in lieu of those provided by this section.
(Dec. 20, 2015, P.L.494, No.88, eff. imd.)

2015 Amendment. Act 88 amended subsec. (a)(1).

Cross References. Section 903 is referred to in sections 711, 904 of this title.

§ 904. Replacement housing for tenants and others.

(a) Payment to certain displaced persons.--

(1) In addition to amounts otherwise authorized, an acquiring agency shall make a payment to or for any displaced person displaced from a dwelling not eligible to receive a payment under section 903 (relating to replacement housing for homeowners), which dwelling was actually and lawfully occupied by the displaced person for not less than 90 days

prior to the initiation of negotiations for acquisition of the dwelling or the receipt of written notice from the 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 $7,200.

(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.

(Dec. 20, 2015, P.L.494, No.88, eff. imd.)

2015 Amendment. Act 88 amended subsec. (a)(1).

Cross References. Section 904 is referred to in section 903 of this title.

§ 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 agency, for or without consideration, to displaced persons or to nonprofit, limited dividend or cooperative organizations or public bodies, on terms and conditions as the acquiring agency deems necessary and proper to effect the relocation of persons displaced by a program or project.

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

(c) Planning and other preliminary expenses for replacement housing.--

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

(2) The loans and grants shall be made prior to the availability of financing for items such as preliminary surveys and analyses of market needs, preliminary site engineering, preliminary architectural fees, legal, appraisal and organizational fees, site acquisition, application and

mortgage commitment fees, construction loan fees and discounts and similar items.

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

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

(d) Availability of funds.--Funds, including motor license funds and other special funds, appropriated or otherwise available to any acquiring agency for a program or project, which results in the displacement of any person, shall be available also for obligations and expenditures to carry out the provisions of this section.

§ 906. Regulations.

The General Counsel may promulgate regulations necessary to assure that:

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

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

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

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

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

Cross References. Section 906 is referred to in sections 902, 903 of this title.

§ 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.

Enactment. Chapter 11 was added May 4, 2006, P.L.112, No.34, effective in 120 days.

Cross References. Chapter 11 is referred to in section 703 of this title; section 6121 of Title 42 (Judiciary and Judicial Procedure).

§ 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 the condemnee.

§ 1103. Trial in court on appeal.

At the trial in court on appeal:

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

(2) If any valuation expert who has not previously testified before the viewers is to testify, the party calling the expert must disclose the expert's name and serve a statement of the valuation of the property before and after the condemnation and the expert's opinion of the highest and best use of the property before the condemnation and of any part remaining after the condemnation on the opposing party at least ten days before the commencement of the trial.

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

Cross References. Section 1103 is referred to in section 1104 of this title.

§ 1104. Competency of condemnee as witness.

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

§ 1105. Evidence generally.

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

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

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

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

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

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

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

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

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

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

(5) A qualified valuation expert may testify that the expert has relied upon the written report of another expert as to the cost of adjustments and alterations to any remaining property made necessary or reasonably required by the condemnation, but only if a copy of the written report has been furnished to the opposing party ten days in advance of the trial.

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

§ 1106. Use of condemned property.

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

APPENDIX TO TITLE 26
EMINENT DOMAIN

Supplementary Provisions of Amendatory Statutes

2018, JUNE 24, P.L.345, NO.45

§ 3. Severability.

The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Explanatory Note. Act 45 amended or added sections 202 and 208 of Title 26.

§ 4. Applicability.

The following provisions shall apply to a condemnation for which a declaration of taking is filed after December 31, 2017:

(1) The addition of the definitions of "conservation easement" and "open space benefits" in 26 Pa.C.S. § 202.

(2) The addition of 26 Pa.C.S. § 208.