

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL  
No. 1659 Session of  
1997

INTRODUCED BY MAYERNIK, READSHAW, MARKOSEK, KAISER, FORCIER,  
LAUGHLIN, HALUSKA, CASORIO, WOGAN, L. I. COHEN AND DeLUCA,  
JUNE 11, 1997

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, NOVEMBER 23, 1998

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, ~~further providing for THE~~ <—  
3 ~~NUMBER OF JUDGES IN THE COURT OF COMMON PLEAS AND THE~~  
4 ~~PHILADELPHIA MUNICIPAL COURT,~~ PROVIDING FOR FEE INCREASES BY <—  
5 CLERKS OF COURT AND FOR AN AUTOMATION FEE; PROVIDING FOR  
6 COSTS AND FEES RELATING TO COAL MINING; FURTHER PROVIDING FOR  
7 ACTIONS THAT MUST BE COMMENCED WITHIN SIX MONTHS, FOR other <—  
8 offenses, FOR DEFICIENCY JUDGMENTS AND FOR THE DEFINITION OF <—  
9 "LOCAL AGENCY" FOR PURPOSES OF GOVERNMENTAL IMMUNITY; and  
10 making editorial changes.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 ~~Section 1. Section 5552(b) of Title 42 of the Pennsylvania~~ <—  
14 ~~Consolidated Statutes, is amended to read:~~

15 ~~SECTION 1. SECTIONS 5522(B)(2), 5552(B) AND 8103 OF TITLE 42~~ <—  
16 ~~OF THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:~~

17 ~~SECTION 1. SECTIONS 911, 1121, 5522(B)(2), 5552(B) AND 8103~~ <—  
18 ~~OF TITLE 42 OF THE PENNSYLVANIA CONSOLIDATED STATUTES ARE~~  
19 ~~AMENDED TO READ:~~

20 ~~§ 911. COURTS OF COMMON PLEAS.~~

21 ~~(A) GENERAL RULE. THERE SHALL BE ONE COURT OF COMMON PLEAS~~

1 ~~FOR EACH JUDICIAL DISTRICT OF THIS COMMONWEALTH CONSISTING OF~~  
2 ~~THE FOLLOWING NUMBER OF JUDGES:~~

3		<del>NUMBER OF</del>
4	JUDICIAL DISTRICT	<del>JUDGES</del>
5	FIRST	<del>{90}</del> <u>93</u>
6	SECOND	<del>11</del>
7	THIRD	<del>7</del>
8	FOURTH	<del>1</del>
9	FIFTH	<del>41</del>
10	SIXTH	<del>8</del>
11	SEVENTH	<del>11</del>
12	EIGHTH	<del>2</del>
13	NINTH	<del>5</del>
14	TENTH	<del>11</del>
15	ELEVENTH	<del>9</del>
16	TWELFTH	<del>8</del>
17	THIRTEENTH	<del>2</del>
18	FOURTEENTH	<del>5</del>
19	FIFTEENTH	<del>11</del>
20	SIXTEENTH	<del>3</del>
21	SEVENTEENTH	<del>2</del>
22	EIGHTEENTH	<del>1</del>
23	NINETEENTH	<del>11</del>
24	TWENTIETH	<del>1</del>
25	TWENTY FIRST	<del>5</del>
26	TWENTY SECOND	<del>1</del>
27	TWENTY THIRD	<del>11</del>
28	TWENTY FOURTH	<del>4</del>
29	TWENTY FIFTH	<del>2</del>
30	TWENTY SIXTH	<del>2</del>

1	<del>TWENTY SEVENTH</del>	<del>-5</del>
2	<del>TWENTY EIGHTH</del>	<del>-2</del>
3	<del>TWENTY NINTH</del>	<del>-5</del>
4	<del>THIRTIETH</del>	<del>-2</del>
5	<del>THIRTY FIRST</del>	<del>-9</del>
6	<del>THIRTY SECOND</del>	<del>18</del>
7	<del>THIRTY THIRD</del>	<del>-2</del>
8	<del>THIRTY FOURTH</del>	<del>-1</del>
9	<del>THIRTY FIFTH</del>	<del>-3</del>
10	<del>THIRTY SIXTH</del>	<del>-6</del>
11	<del>THIRTY SEVENTH</del>	<del>-1</del>
12	<del>THIRTY EIGHTH</del>	<del>18</del>
13	<del>THIRTY NINTH</del>	<del>-4</del>
14	<del>FORTIETH</del>	<del>-2</del>
15	<del>FORTY FIRST</del>	<del>-2</del>
16	<del>FORTY SECOND</del>	<del>-2</del>
17	<del>FORTY THIRD</del>	<del>-5</del>
18	<del>FORTY FOURTH</del>	<del>-1</del>
19	<del>FORTY FIFTH</del>	<del>-6</del>
20	<del>FORTY SIXTH</del>	<del>-2</del>
21	<del>FORTY SEVENTH</del>	<del>-5</del>
22	<del>FORTY EIGHTH</del>	<del>-1</del>
23	<del>FORTY NINTH</del>	<del>-3</del>
24	<del>FIFTIETH</del>	<del>-5</del>
25	<del>FIFTY FIRST</del>	<del>-3</del>
26	<del>FIFTY SECOND</del>	<del>-3</del>
27	<del>FIFTY THIRD</del>	<del>-3</del>
28	<del>FIFTY FOURTH</del>	<del>-1</del>
29	<del>FIFTY FIFTH</del>	<del>-1</del>
30	<del>FIFTY SIXTH</del>	<del>-2</del>

1	FIFTY SEVENTH	<del>2</del>
2	FIFTY EIGHTH	<del>1</del>
3	FIFTY NINTH	<del>1</del>
4	SIXTIETH	<del>1</del>

5     ~~(B) SINGLE COUNTY DISTRICTS. IN SINGLE COUNTY JUDICIAL~~  
6     ~~DISTRICTS THE COURT OF COMMON PLEAS OF THE DISTRICT SHALL BE~~  
7     ~~KNOWN AS THE "COURT OF COMMON PLEAS OF (THE RESPECTIVE) COUNTY."~~

8     ~~(C) MULTICOUNTY DISTRICTS. IN MULTICOUNTY JUDICIAL~~  
9     ~~DISTRICTS THE COURT OF COMMON PLEAS OF THE DISTRICT SHALL BE~~  
10    ~~KNOWN AS THE "COURT OF COMMON PLEAS OF THE (RESPECTIVE) JUDICIAL~~  
11    ~~DISTRICT." THERE SHALL BE A SEPARATE BRANCH OF THE COURT IN EACH~~  
12    ~~COUNTY COMPRISING THE JUDICIAL DISTRICT.~~

13   ~~§ 1121. PHILADELPHIA MUNICIPAL COURT.~~

14    ~~THE PHILADELPHIA MUNICIPAL COURT SHALL CONSIST OF [25] 28~~  
15    ~~JUDGES.~~

16    SECTION 1. TITLE 42 OF THE PENNSYLVANIA CONSOLIDATED  
17    STATUTES IS AMENDED BY ADDING SECTIONS TO READ:

18    § 1725.4. FEE INCREASES AND AUTOMATION FEE.

19    (A) INCREASING EXISTING FEES.--

20       (1) IN COUNTIES OF THE SECOND CLASS A AND THE THIRD  
21       THROUGH EIGHTH CLASS, INCLUDING HOME RULE COUNTIES OF THE  
22       SAME CLASS, THE CLERK OF COURTS MAY INCREASE ANY FEE OR  
23       CHARGE THAT EXISTS AS OF THE EFFECTIVE DATE OF THIS SECTION  
24       WITH THE APPROVAL OF THE PRESIDENT JUDGE. THE AMOUNT OF ANY  
25       INCREASE MAY NOT BE GREATER THAN THE AGGREGATE OF THE  
26       CONSUMER PRICE INDEX FROM THE MONTH IN WHICH THE FEE WAS LAST  
27       ESTABLISHED THROUGH JUNE 1998.

28       (2) THE AMOUNT OF ANY FEE OR CHARGE INCREASED PURSUANT  
29       TO PARAGRAPH (1) MAY BE INCREASED EVERY THREE YEARS, PROVIDED  
30       THAT THE AMOUNT OF THE INCREASE MAY NOT BE GREATER THAN THE

1 PERCENTAGE OF INCREASE IN THE CONSUMER PRICE INDEX FOR URBAN  
2 WORKERS FOR THE IMMEDIATE THREE YEARS PRECEDING THE LAST  
3 INCREASE IN THE FEE OR CHARGE.

4 (B) AUTOMATION FEE FOR CLERK OF COURTS OFFICE.--IN ADDITION  
5 TO ANY OTHER FEE AUTHORIZED BY LAW, AN AUTOMATION FEE OF NOT  
6 MORE THAN \$5 MAY BE CHARGED AND COLLECTED BY THE CLERK OF COURTS  
7 OF COUNTIES OF THE SECOND CLASS A AND THE THIRD THROUGH EIGHTH  
8 CLASS, INCLUDING HOME RULE COUNTIES OF THE SAME CLASS, FOR THE  
9 INITIATION OF ANY ACTION OR LEGAL PROCEEDING. THE AUTOMATION FEE  
10 SHALL BE DEPOSITED INTO A SPECIAL CLERK OF COURTS AUTOMATION  
11 FUND ESTABLISHED IN EACH COUNTY. MONEYS IN THE SPECIAL FUND  
12 SHALL BE USED SOLELY FOR THE PURPOSE OF AUTOMATION AND CONTINUED  
13 AUTOMATION UPDATE OF THE OFFICE OF THE CLERK OF COURTS.

14 § 2504.1. COSTS AND FEES RELATED TO COAL MINING ACTIVITY.

15 (A) GENERAL RULE.--A PARTY MAY FILE A PETITION FOR THE AWARD  
16 OF COSTS AND FEES REASONABLY INCURRED AS A RESULT OF  
17 PARTICIPATION IN A PROCEEDING RELATING TO A COAL MINING  
18 ACTIVITY.

19 (B) RECIPIENTS.--COSTS AND FEES UNDER THIS SECTION MAY BE  
20 AWARDED:

21 (1) TO ANY PARTY FROM THE PERMITTEE IF:

22 (I) THE PARTY INITIATES OR PARTICIPATES IN A  
23 PROCEEDING REVIEWING AN ENFORCEMENT ACTION THAT RESULTS  
24 IN A DETERMINATION THAT A VIOLATION OF LAW HAS OCCURRED  
25 OR THAT AN IMMINENT HAZARD EXISTED; AND

26 (II) THE BOARD DETERMINES THAT THE PARTY MADE A  
27 SUBSTANTIAL CONTRIBUTION TO THE FULL AND FAIR  
28 DETERMINATION OF THE ISSUES.

29 (2) TO ANY PARTY, OTHER THAN A PERMITTEE OR  
30 REPRESENTATIVE OF A PERMITTEE, FROM THE DEPARTMENT IF THE

1 PARTY INITIATES OR PARTICIPATES IN ANY PROCEEDING AND  
2 PREVAILS IN WHOLE OR IN PART ON THE MERITS.

3 (3) TO A PERMITTEE FROM THE DEPARTMENT OR FROM A PARTY  
4 IF THE DEPARTMENT OR PARTY INITIATED ANY PROCEEDING IN BAD  
5 FAITH AND FOR THE PURPOSE OF HARASSING OR EMBARRASSING THE  
6 PERMITTEE.

7 (4) TO THE DEPARTMENT FROM A PARTY OR PERSON THAT  
8 APPLIED FOR A REVIEW OF A FINAL DEPARTMENT ACTION OR  
9 OTHERWISE PARTICIPATED IN PROCEEDING IN BAD FAITH OR FOR THE  
10 PURPOSE OF HARASSING OR EMBARRASSING THE DEPARTMENT OR OTHER  
11 COMMONWEALTH AGENCY.

12 (C) TIME FOR FILING.--A PETITION FOR THE AWARD OF COSTS AND  
13 FEES SHALL BE FILED WITH THE BOARD WITHIN 30 DAYS OF THE DATE  
14 THAT AN ADJUDICATION OF THE BOARD BECOMES FINAL. A PARTY SHALL  
15 HAVE 30 DAYS FROM SERVICE OF THE PETITION IN WHICH TO FILE AN  
16 ANSWER.

17 (D) CONTENTS OF PETITION.--A PETITION FOR THE AWARD OF COSTS  
18 AND FEES UNDER THIS SECTION SHALL INCLUDE:

19 (1) THE NAME OF THE PARTY AGAINST WHOM COSTS OR FEES ARE  
20 SOUGHT;

21 (2) AN AFFIDAVIT SETTING FORTH IN DETAIL ALL COSTS AND  
22 FEES REASONABLY INCURRED IN CONNECTION WITH THE PARTY'S  
23 PARTICIPATION IN THE PROCEEDING;

24 (3) RECEIPTS OR OTHER EVIDENCE OF COSTS AND FEES; AND

25 (4) IF ATTORNEY FEES ARE CLAIMED, EVIDENCE OF THE HOURS  
26 EXPENDED, THE CUSTOMARY COMMERCIAL RATE FOR SUCH SERVICES IN  
27 THE AREA AND THE EXPERIENCE, PROFESSIONAL QUALIFICATIONS AND  
28 ABILITY OF THE INDIVIDUALS PERFORMING THE SERVICES.

29 (E) EXCLUSIVE REMEDY.--THIS SECTION SHALL BE THE EXCLUSIVE  
30 REMEDY FOR THE AWARD OF COSTS AND FEES INCURRED IN A PROCEEDING

1 EXCEPT FOR THE FOLLOWING:

2 (1) SECTION 601 OF THE ACT OF JUNE 22, 1937 (P.L.1987,  
3 NO.394), KNOWN AS THE CLEAN STREAMS LAW.

4 (2) SECTION 18.3 OF THE ACT OF MAY 31, 1945 (P.L.1198,  
5 NO.418), KNOWN AS THE SURFACE MINING CONSERVATION AND  
6 RECLAMATION ACT.

7 (3) SECTION 13 OF THE ACT OF APRIL 27, 1966 (1ST  
8 SP.SESS., P.L.31, NO.1), KNOWN AS THE BITUMINOUS MINE  
9 SUBSIDENCE AND LAND CONSERVATION ACT.

10 (4) SECTION 13 OF THE ACT OF SEPTEMBER 24, 1968  
11 (P.L.1040, NO.318), KNOWN AS THE COAL REFUSE DISPOSAL CONTROL  
12 ACT.

13 (F) APPLICABILITY.--THE PROVISIONS OF THIS SECTION SHALL  
14 APPLY TO ALL PROCEEDINGS AND PETITIONS FOR COSTS AND FEES FILED  
15 AFTER THE EFFECTIVE DATE OF THIS SECTION.

16 (G) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
17 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
18 SUBSECTION:

19 "BOARD." THE ENVIRONMENTAL HEARING BOARD.

20 "COAL MINING ACTIVITY." THE EXTRACTION OF COAL FROM THE  
21 EARTH, WASTE OR STOCKPILES, PITS OR BANKS BY REMOVING THE STRATA  
22 OR MATERIAL WHICH OVERLIES OR IS ABOVE OR BETWEEN THEM OTHERWISE  
23 EXPOSING AND RETRIEVING THEM FROM THE SURFACE, INCLUDING, BUT  
24 NOT LIMITED TO, STRIP MINING, AUGER MINING, DREDGING, QUARRYING  
25 AND LEACHING AND ALL SURFACE ACTIVITY CONNECTED WITH SURFACE OR  
26 UNDERGROUND COAL MINING, INCLUDING, BUT NOT LIMITED TO,  
27 EXPLORATION, SITE PREPARATION, COAL PROCESSING OR CLEANING, COAL  
28 REFUSE DISPOSAL, ENTRY, TUNNEL, DRIFT, SLOPE, SHAFT AND BOREHOLE  
29 DRILLING AND CONSTRUCTION, ROAD CONSTRUCTION, USE, MAINTENANCE  
30 AND RECLAMATION, WATER SUPPLY RESTORATION OR REPLACEMENT, REPAIR

1 OR COMPENSATION FOR DAMAGES TO STRUCTURES CAUSED BY UNDERGROUND  
2 COAL MINING AND ALL ACTIVITIES RELATED THERETO.

3 "COSTS AND FEES." ALL REASONABLE COSTS AND EXPENSES,  
4 INCLUDING ATTORNEY AND EXPERT WITNESS FEES, REASONABLY INCURRED  
5 AS A RESULT OF PARTICIPATION IN A PROCEEDING.

6 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF  
7 THE COMMONWEALTH.

8 "PROCEEDINGS." APPEALS OF FINAL DEPARTMENT ACTIONS BEFORE  
9 THE ENVIRONMENTAL HEARING BOARD AND JUDICIAL REVIEW OF BOARD  
10 ADJUDICATION.

11 SECTION 2. SECTIONS 5522(B)(2), 5552(B) AND 8103 OF TITLE 42  
12 ARE AMENDED TO READ:

13 § 5522. SIX MONTHS LIMITATION.

14 \* \* \*

15 (B) COMMENCEMENT OF ACTION REQUIRED.--THE FOLLOWING ACTIONS  
16 AND PROCEEDINGS MUST BE COMMENCED WITHIN SIX MONTHS:

17 \* \* \*

18 (2) A PETITION FOR THE ESTABLISHMENT OF A DEFICIENCY  
19 JUDGMENT FOLLOWING [SALE OF THE COLLATERAL OF THE DEBTOR  
20 UNDER] EXECUTION AND DELIVERY OF THE SHERIFF'S DEED FOR THE  
21 PROPERTY SOLD IN CONNECTION WITH THE EXECUTION PROCEEDINGS  
22 REFERENCED IN THE PROVISIONS OF SECTION 8103 (RELATING TO  
23 DEFICIENCY JUDGMENTS).

24 \* \* \*

25 § 5552. Other offenses.

26 \* \* \*

27 (b) Major offenses.--A prosecution for any of the following  
28 offenses must be commenced within five years after it is  
29 committed:

30 (1) Under the following provisions of Title 18 (relating



1 to crimes and offenses):

2 Section 911 (relating to corrupt organizations).

3 Section 2702 (relating to aggravated assault).

4 Section 2706 (relating to terroristic threats).

5 Section 2901 (relating to kidnapping).

6 Section 3121 (relating to rape).

7 Section 3122.1 (relating to statutory sexual  
8 assault).

9 Section 3123 (relating to involuntary deviate sexual  
10 intercourse).

11 Section 3124.1 (relating to sexual assault).

12 Section 3125 (relating to aggravated indecent  
13 assault).

14 Section 3301 (relating to arson and related  
15 offenses).

16 Section 3502 (relating to burglary).

17 Section 3701 (relating to robbery).

18 Section 3921 (relating to theft by unlawful taking or  
19 disposition) through section 3933 (relating to unlawful  
20 use of computer).

21 Section 4101 (relating to forgery).

22 Section 4108 (relating to commercial bribery and  
23 breach of duty to act disinterestedly).

24 Section 4109 (relating to rigging publicly exhibited  
25 contest).

26 Section 4117 (relating to insurance fraud).

27 Section 4302 (relating to incest).

28 Section 4701 (relating to bribery in official and  
29 political matters) through section 4703 (relating to  
30 retaliation for past official action).

Section 4902 (relating to perjury) through section 4912 (relating to impersonating a public servant).

Section 4952 (relating to intimidation of witnesses or victims).

Section 4953 (relating to retaliation against witness or victim).

Section 5101 (relating to obstructing administration of law or other governmental function).

Section 5111 (relating to dealing in proceeds of unlawful activities).

Section 5512 (relating to lotteries, etc.) through section 5514 (relating to pool selling and bookmaking).

Section 5902(b) (relating to prostitution and related offenses).

Section 6312 (relating to sexual abuse of children).

(2) Any offense punishable under section 13(f) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(3) Any conspiracy to commit any of the offenses set forth in paragraphs (1) and (2) and any solicitation to commit any of the offenses in paragraphs (1) and (2) if the solicitation results in the completed offense.

(4) Under the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

\* \* \*

§ 8103. DEFICIENCY JUDGMENTS.

←

(A) GENERAL RULE.--WHENEVER ANY REAL PROPERTY IS SOLD, DIRECTLY OR INDIRECTLY, TO THE JUDGMENT CREDITOR IN EXECUTION PROCEEDINGS AND THE PRICE FOR WHICH SUCH PROPERTY HAS BEEN SOLD IS NOT SUFFICIENT TO SATISFY THE AMOUNT OF THE JUDGMENT,

1 INTEREST AND COSTS AND THE JUDGMENT CREDITOR SEEKS TO COLLECT  
2 THE BALANCE DUE ON SAID JUDGMENT, INTEREST AND COSTS, THE  
3 JUDGMENT CREDITOR SHALL PETITION THE COURT [HAVING JURISDICTION]  
4 TO FIX THE FAIR MARKET VALUE OF THE REAL PROPERTY SOLD. THE  
5 PETITION SHALL BE FILED AS A SUPPLEMENTARY PROCEEDING IN THE  
6 MATTER IN WHICH THE JUDGMENT WAS ENTERED.

7 (B) EFFECT OF FAILURE TO GIVE NOTICE.--ANY DEBTOR, OBLIGOR,  
8 GUARANTOR, MORTGAGOR, AND ANY OTHER PERSON DIRECTLY OR  
9 INDIRECTLY LIABLE TO THE JUDGMENT CREDITOR FOR THE PAYMENT OF  
10 THE DEBT, AND ANY OWNER OF THE PROPERTY AFFECTED THEREBY, WHO IS  
11 NEITHER NAMED IN THE PETITION NOR SERVED WITH A COPY THEREOF OR  
12 NOTICE OF THE FILING THEREOF AS PRESCRIBED BY GENERAL RULE,  
13 SHALL BE DEEMED TO BE DISCHARGED FROM ALL PERSONAL LIABILITY TO  
14 THE JUDGMENT CREDITOR ON THE DEBT, INTEREST AND COSTS, BUT ANY  
15 SUCH FAILURE TO NAME SUCH PERSON IN THE PETITION OR TO SERVE THE  
16 PETITION OR NOTICE OF THE FILING THEREOF SHALL NOT PREVENT  
17 PROCEEDINGS AGAINST ANY RESPONDENT NAMED AND SERVED.

18 (C) ACTION ON PETITION.--

19 (1) IF NO ANSWER IS FILED WITHIN THE TIME PRESCRIBED BY  
20 GENERAL RULE, OR IF AN ANSWER IS FILED WHICH DOES NOT  
21 CONTROVERT THE ALLEGATION OF THE FAIR MARKET VALUE OF THE  
22 PROPERTY AS AVERRED IN THE PETITION, THE COURT SHALL  
23 DETERMINE AND FIX AS THE FAIR MARKET VALUE OF THE PROPERTY  
24 SOLD THE AMOUNT THEREOF ALLEGED IN THE PETITION TO BE THE  
25 FAIR MARKET VALUE.

26 (2) IF AN ANSWER IS FILED CONTROVERTING THE AVERMENT IN  
27 THE PETITION AS TO THE FAIR MARKET VALUE OF THE PROPERTY, BUT  
28 NO TESTIMONY IS PRODUCED AT THE HEARING SUPPORTING SUCH  
29 DENIAL OF THE FAIR MARKET VALUE, THE COURT SHALL DETERMINE  
30 AND FIX AS THE FAIR MARKET VALUE OF THE PROPERTY SOLD THE

1 AMOUNT THEREOF ALLEGED IN THE PETITION TO BE THE FAIR MARKET  
2 VALUE[, AND THEREUPON ENTER A DECREE DIRECTING THE JUDGMENT  
3 CREDITOR TO FILE RELEASE OF THE DEBTORS, OBLIGORS, GUARANTORS  
4 OR ANY OTHER PERSONS DIRECTLY OR INDIRECTLY LIABLE FOR THE  
5 DEBTS, TO THE EXTENT OF THE FAIR VALUE SO FIXED, WHEREUPON  
6 EXECUTION MAY BE ISSUED FOR THE BALANCE OF THE DEBT].

7 (3) IF AN ANSWER IS FILED ALLEGING AS THE FAIR MARKET  
8 VALUE AN AMOUNT IN EXCESS OF THE FAIR MARKET VALUE OF THE  
9 PROPERTY AS AVERRED IN THE PETITION, THE JUDGMENT CREDITOR  
10 MAY AGREE TO ACCEPT AS THE FAIR MARKET VALUE OF THE PROPERTY  
11 THE VALUE SET UP IN THE ANSWER AND IN SUCH CASE MAY FILE A  
12 STIPULATION RELEASING THE DEBTORS, OBLIGORS AND GUARANTORS,  
13 AND ANY OTHER PERSONS LIABLE DIRECTLY OR INDIRECTLY FOR THE  
14 DEBT, AND THE OWNERS OF THE PROPERTY AFFECTED THEREBY, FROM  
15 PERSONAL LIABILITY TO THE JUDGMENT CREDITOR TO THE EXTENT OF  
16 THE FAIR MARKET VALUE AS AVERRED IN THE ANSWER, LESS THE  
17 AMOUNT OF ANY PRIOR LIENS, COSTS, TAXES AND MUNICIPAL CLAIMS  
18 NOT DISCHARGED BY THE SALE, AND ALSO LESS THE AMOUNT OF ANY  
19 SUCH ITEMS PAID AT DISTRIBUTION ON THE SALE.

20 (4) IF AN ANSWER [SHALL BE] IS FILED AND TESTIMONY  
21 PRODUCED SETTING FORTH THAT THE FAIR MARKET VALUE OF THE  
22 PROPERTY IS MORE THAN THE VALUE STATED IN THE PETITION, THE  
23 COURT SHALL HEAR EVIDENCE OF, AND DETERMINE AND FIX THE FAIR  
24 MARKET VALUE OF THE PROPERTY[, WHICH SHALL IN NO EVENT EXCEED  
25 THE AMOUNT OF THE DEBT, INTEREST, COSTS, TAXES AND MUNICIPAL  
26 CLAIMS] SOLD.

27 (5) AFTER THE HEARING, IF ANY, AND THE DETERMINATION BY  
28 THE COURT UNDER PARAGRAPHS (1), (2) OR (4) OF THE FAIR MARKET  
29 VALUE OF THE PROPERTY SOLD, THEN, EXCEPT AS OTHERWISE  
30 PROVIDED IN SUBSECTION (F), THE DEBTOR, OBLIGOR, GUARANTOR

1 AND ANY OTHER PERSON LIABLE DIRECTLY OR INDIRECTLY TO THE  
2 JUDGMENT CREDITOR FOR THE PAYMENT OF THE DEBT SHALL BE  
3 RELEASED AND DISCHARGED OF SUCH LIABILITY TO THE JUDGMENT  
4 CREDITOR TO THE EXTENT OF THE FAIR MARKET VALUE OF SAID  
5 PROPERTY [AS PREVIOUSLY AGREED TO BY THE JUDGMENT CREDITOR  
6 OR] DETERMINED BY THE COURT, LESS THE AMOUNT OF ALL PRIOR  
7 LIENS, COSTS, TAXES AND MUNICIPAL CLAIMS NOT DISCHARGED BY  
8 THE SALE, AND ALSO LESS THE AMOUNT OF ANY SUCH ITEMS PAID AT  
9 THE DISTRIBUTION ON THE SALE, AND SHALL ALSO BE RELEASED AND  
10 DISCHARGED OF SUCH LIABILITY TO THE EXTENT OF ANY AMOUNT BY  
11 WHICH THE SALE PRICE, LESS SUCH PRIOR LIENS, COSTS, TAXES AND  
12 MUNICIPAL CLAIMS, EXCEEDS THE FAIR MARKET VALUE AS AGREED TO  
13 BY THE JUDGMENT CREDITOR OR FIXED AND DETERMINED BY THE COURT  
14 AS PROVIDED IN THIS SUBSECTION, AND THEREUPON THE JUDGMENT  
15 CREDITOR MAY PROCEED BY APPROPRIATE PROCEEDINGS TO COLLECT  
16 THE BALANCE OF THE DEBT.

17 (D) ACTION IN ABSENCE OF PETITION.--IF THE JUDGMENT CREDITOR  
18 SHALL FAIL TO PRESENT A PETITION TO FIX THE FAIR MARKET VALUE OF  
19 THE REAL PROPERTY SOLD WITHIN THE TIME AFTER THE SALE OF SUCH  
20 REAL PROPERTY PROVIDED BY SECTION 5522 (RELATING TO SIX MONTHS  
21 LIMITATION), THE DEBTOR, OBLIGOR, GUARANTOR OR ANY OTHER PERSON  
22 LIABLE DIRECTLY OR INDIRECTLY TO THE JUDGMENT CREDITOR FOR THE  
23 PAYMENT OF THE DEBT, OR ANY PERSON INTERESTED IN ANY REAL ESTATE  
24 WHICH WOULD, EXCEPT FOR THE PROVISIONS OF THIS SECTION, BE BOUND  
25 BY THE JUDGMENT, MAY FILE A PETITION, AS A SUPPLEMENTARY  
26 PROCEEDING IN THE MATTER IN WHICH THE JUDGMENT WAS ENTERED, IN  
27 THE COURT HAVING JURISDICTION, SETTING FORTH THE FACT OF THE  
28 SALE, AND THAT NO PETITION HAS BEEN FILED WITHIN THE TIME  
29 LIMITED BY [STATUTE AFTER THE SALE] SECTION 5522 TO FIX THE FAIR  
30 MARKET VALUE OF THE PROPERTY SOLD, WHEREUPON THE COURT, AFTER

1 NOTICE AS PRESCRIBED BY GENERAL RULE, AND BEING SATISFIED OF  
2 SUCH FACTS, SHALL DIRECT THE CLERK TO MARK THE JUDGMENT  
3 SATISFIED, RELEASED AND DISCHARGED.

4 (E) WAIVER OF BENEFIT OF SECTION PROHIBITED.--ANY AGREEMENT  
5 MADE BY ANY DEBTOR, OBLIGOR, SURETY OR GUARANTOR AT ANY TIME,  
6 EITHER BEFORE OR AFTER OR AT THE TIME OF INCURRING ANY  
7 OBLIGATION, TO WAIVE THE BENEFITS OF THIS SECTION OR TO RELEASE  
8 ANY OBLIGEE FROM COMPLIANCE WITH THE PROVISIONS HEREOF SHALL BE  
9 VOID.

10 (F) CERTAIN SPECIAL ALLOCATIONS.--NOTWITHSTANDING THE  
11 PROVISIONS OF SUBSECTION (C)(5), IF THE JUDGMENT CREDITOR IS A  
12 NONCONSUMER JUDGMENT CREDITOR AND:

13 (1) IF THE JUDGMENT HAS BEEN ENTERED WITH RESPECT TO A  
14 PARTIAL RECOURSE OBLIGATION, THE FAIR MARKET VALUE OF THE  
15 PROPERTY, DETERMINED AS PROVIDED IN SUBSECTION (C), WILL BE  
16 APPLIED FIRST TO DISCHARGE, AS PROVIDED IN SUBSECTION (C)(5),  
17 ALL LIABILITY FOR THE NONRECOURSE PORTION OF THE OBLIGATION  
18 BEFORE ANY PORTION OF SUCH VALUE IS APPLIED TO DISCHARGE ANY  
19 LIABILITY FOR THE RECOURSE PORTION OF THE OBLIGATION; AND

20 (2) IF THE JUDGMENT HAS BEEN ENTERED WITH RESPECT TO AN  
21 OBLIGATION OF WHICH ONLY A PORTION IS GUARANTEED, THE FAIR  
22 MARKET VALUE OF THE PROPERTY, DETERMINED AS PROVIDED IN  
23 SUBSECTION (C), WILL BE APPLIED FIRST TO DISCHARGE, AS  
24 PROVIDED IN SUBSECTION (C), ALL LIABILITY FOR THE PORTION OF  
25 THE OBLIGATION WHICH IS NOT GUARANTEED, BEFORE ANY PORTION OF  
26 SUCH VALUE IS APPLIED TO DISCHARGE ANY LIABILITY FOR THE  
27 PORTION OF SUCH OBLIGATION WHICH IS GUARANTEED.

28 (G) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
29 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
30 SUBSECTION:

1       "CONSUMER CREDIT TRANSACTION." A CREDIT TRANSACTION IN WHICH  
2       THE PARTY TO WHOM CREDIT IS OFFERED OR EXTENDED IS A NATURAL  
3       PERSON AND THE MONEY, PROPERTY OR SERVICES WHICH ARE THE SUBJECT  
4       OF THE TRANSACTION ARE PRIMARILY FOR PERSONAL, FAMILY OR  
5       HOUSEHOLD PURPOSES.

6       "JUDGMENT." THE JUDGMENT WHICH WAS ENFORCED BY THE EXECUTION  
7       PROCEEDINGS REFERRED TO IN SUBSECTION (A), WHETHER THAT JUDGMENT  
8       IS A JUDGMENT IN PERSONAM SUCH AS A JUDGMENT REQUIRING THE  
9       PAYMENT OF MONEY, OR A JUDGMENT DE TERRIS OR IN REM SUCH AS A  
10       JUDGMENT ENTERED IN AN ACTION OF MORTGAGE FORECLOSURE OR A  
11       JUDGMENT ENTERED IN AN ACTION OR PROCEEDING UPON A MECHANIC'S  
12       LIEN, A MUNICIPAL CLAIM, A TAX LIEN OR A CHARGE ON LAND.

13       "JUDGMENT CREDITOR." THE HOLDER OF THE JUDGMENT WHICH WAS  
14       ENFORCED BY THE EXECUTION PROCEEDINGS.

15       "NONCONSUMER JUDGMENT CREDITOR." ANY JUDGMENT CREDITOR  
16       EXCEPT A JUDGMENT CREDITOR WHOSE JUDGMENT WAS ENTERED WITH  
17       RESPECT TO A CONSUMER CREDIT TRANSACTION.

18       "NONRECOURSE PORTION OF THE OBLIGATION." THE PORTION AS TO  
19       WHICH THE JUDGMENT CREDITOR'S RECOURSE IS LIMITED TO THE  
20       MORTGAGED PROPERTY OR OTHER SPECIFIED ASSETS OF THE DEBTOR WHICH  
21       ARE LESS THAN ALL OF SUCH ASSETS.

22       "PARTIAL RECOURSE OBLIGATION." AN OBLIGATION WHICH INCLUDES  
23       BOTH A NONRECOURSE PORTION AND A RECOURSE PORTION.

24       "RECOURSE PORTION OF THE OBLIGATION." ALL OF THE OBLIGATION  
25       EXCEPT THE NONRECOURSE PORTION THEREOF.

26       SECTION 2 3. THE DEFINITION OF "LOCAL AGENCY" IN SECTION  
27       8501 OF TITLE 42 IS AMENDED TO READ:

28       § 8501. DEFINITIONS.

29       THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
30       SHALL HAVE, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE

1 MEANINGS GIVEN TO THEM IN THIS SECTION:

2 \* \* \*

3 "LOCAL AGENCY." A GOVERNMENT UNIT OTHER THAN THE  
4 COMMONWEALTH GOVERNMENT. THE TERM INCLUDES AN INTERMEDIATE  
5 UNIT[.] AND MUNICIPALITIES COOPERATING IN THE EXERCISE OR  
6 PERFORMANCE OF GOVERNMENTAL FUNCTIONS, POWERS OR  
7 RESPONSIBILITIES UNDER 53 PA.C.S. CH. 23 SUBCH. A (RELATING TO  
8 INTERGOVERNMENTAL COOPERATION).

9 ~~SECTION 3. THE NEW JUDGEShips FOR THE FIRST DISTRICT ADDED~~ <—  
10 ~~BY THE AMENDMENT OF 42 PA.C.S. § 911(A) AND FOR THE PHILADELPHIA~~  
11 ~~MUNICIPAL COURT ADDED BY THE AMENDMENT OF 42 PA.C.S. § 1121~~  
12 ~~SHALL BE CREATED ON JULY 1, 1999, AND SHALL BE INITIALLY FILLED~~  
13 ~~BY THE GOVERNOR IN ACCORDANCE WITH SECTION 13 OF ARTICLE V OF~~  
14 ~~THE CONSTITUTION OF PENNSYLVANIA.~~

15 SECTION 4. THE FOLLOWING ACTS AND PARTS OF ACTS ARE <—  
16 REPEALED:

17 THE FIFTH SENTENCE OF SUBSECTION (B) OF SECTION 307 OF THE  
18 ACT OF JUNE 22, 1937 (P.L.1987, NO.394), KNOWN AS THE CLEAN  
19 STREAMS LAW.

20 THE FIFTH SENTENCE OF SECTION 4(B) AND SECTION 4.2(F)(5) OF  
21 THE ACT OF MAY 31, 1945 (P.L.1198, NO.418), KNOWN AS THE SURFACE  
22 MINING CONSERVATION AND RECLAMATION ACT.

23 THE LAST SENTENCE OF SECTION 5(G) OF THE ACT OF APRIL 27,  
24 1966 (1ST SP.SESS., P.L.31, NO.1), KNOWN AS THE BITUMINOUS MINE  
25 SUBSIDENCE AND LAND CONSERVATION ACT.

26 THE LAST SENTENCE OF SECTION 5(I) OF THE ACT OF SEPTEMBER 24,  
27 1968 (P.L.1040, NO.318), KNOWN AS THE COAL REFUSE DISPOSAL  
28 CONTROL ACT.

29 ~~SECTION 3—4~~ 5. THE AMENDMENT OF 42 PA.C.S. §§ 5522 AND 8103 <—  
30 SHALL APPLY TO ALL ACTIONS AND PROCEEDINGS PENDING ON THE



1 EFFECTIVE DATE OF THIS ACT.

2 Section ~~2-4-5~~ 6. This act shall take effect immediately. <—