

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2019

Session of  
2005

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INTRODUCED BY BEYER, FEESE, E. Z. TAYLOR, HERMAN, LEH, B. SMITH,  
ARMSTRONG, BOYD, CALTAGIRONE, CAUSER, CORRIGAN, CREIGHTON,  
DALEY, GINGRICH, GOOD, GOODMAN, HERSHEY, KILLION, MAHER,  
MARKOSEK, MUSTIO, SCHRODER, SHANER, R. STEVENSON, WATSON,  
WILT, YOUNGBLOOD, SIPTROTH AND DALLY, OCTOBER 13, 2005

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
NOVEMBER 1, 2005

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## AN ACT

1 ~~Amending the act of June 22, 1964 (Sp.Sess., P.L.84, No.6),~~ <—  
2 ~~entitled "An act to codify, amend, revise and consolidate the~~  
3 ~~laws relating to eminent domain," further providing for~~  
4 ~~abandonment of project.~~

5 AMENDING TITLE 26 (EMINENT DOMAIN) OF THE PENNSYLVANIA <—  
6 CONSOLIDATED STATUTES, PROVIDING FOR ABANDONMENT OF PROJECT  
7 AFTER CONDEMNATION; AND MAKING A REPEAL RELATED TO  
8 ABANDONMENT OF PROJECT AFTER CONDEMNATION.

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

11 ~~Section 1. Section 410 of the act of June 22, 1964~~ <—  
12 ~~(Sp.Sess., P.L.84, No.6), known as the Eminent Domain Code,~~  
13 ~~amended February 18, 1982 (P.L.43, No.25), is amended to read:~~

14 ~~Section 410. Abandonment of Project. (a) If a condemnor~~  
15 ~~has condemned a fee and thereafter abandons the purpose for~~  
16 ~~which the property has been condemned, the condemnor may dispose~~  
17 ~~of it by sale [or otherwise: Provided, however, That if], lease,~~  
18 ~~gift, devise or other transfer with the following restrictions:~~

19 ~~(1) If the property is undeveloped or has not been~~

1 substantially improved, it may not be disposed of within three  
2 years after condemnation without first being offered to the  
3 condemnee at the same price paid to the condemnee by the  
4 condemnor[. And provided further, That if].

5 ~~(2) If the property is [not located within] located outside~~  
6 ~~the corporate boundaries of a county of the first or second~~  
7 ~~class and is undeveloped or has not been substantially improved~~  
8 ~~and was devoted to agricultural use at the time of the~~  
9 ~~condemnation, it may not be disposed of within [twelve] thirty~~  
10 ~~years after condemnation without first being offered to the~~  
11 ~~condemnee at the same price paid to the condemnee by the~~  
12 ~~condemnor. The condemnee shall be served with notice of the~~  
13 ~~offer in the same manner as prescribed for the service of~~  
14 ~~notices in subsection (b) of section 405 of this act, and shall~~  
15 ~~have ninety days after receipt of such notice to make written~~  
16 ~~acceptance thereof.~~

17 ~~(3) If the property is undeveloped or has not been~~  
18 ~~substantially improved and the offers required to be made under~~  
19 ~~paragraphs (1) and (2) have not been accepted, the property~~  
20 ~~shall not be disposed of by any condemnor, acquiring agency or~~  
21 ~~subsequent purchaser for a nonpublic use or purpose for a period~~  
22 ~~of no less than thirty years from the date of abandonment of the~~  
23 ~~purpose for which the property was originally condemned. Upon~~  
24 ~~petition by the condemnor, the court may permit disposal of the~~  
25 ~~property in less than thirty years upon proof by a preponderance~~  
26 ~~of the evidence that a change in circumstances has abrogated the~~  
27 ~~original public purpose for which the property was taken.~~

28 ~~(b) The condemnor may not condition any offer required to be~~  
29 ~~made to a condemnee under subsection (a), on the payment by the~~  
30 ~~condemnee of additional fees, real estate taxes or payments in~~

~~lieu of taxes or other costs.~~

~~(c) As used in this section:~~

~~"Agricultural commodity" means any [and all plant and animal products including Christmas trees produced in this State for commercial purposes.] of the following:~~

~~(1) Agricultural, apicultural, aquacultural, horticultural, floricultural, silvicultural, viticultural and dairy products.~~

~~(2) Pasture.~~

~~(3) Livestock and the products thereof.~~

~~(4) Ranch raised furbearing animals and the products thereof.~~

~~(5) Poultry and the products of poultry.~~

~~(6) Products commonly raised or produced on farms which are:~~

~~(i) intended for human consumption; or~~

~~(ii) transported or intended to be transported in commerce.~~

~~(7) Processed or manufactured products of products commonly raised or produced on farms which are:~~

~~(i) intended for human consumption; or~~

~~(ii) transported or intended to be transported in commerce.~~

~~"Agricultural use" means [use of the] land which is used for the purpose of producing an agricultural commodity or [when] is devoted to and [meeting] 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~~

1 ~~agricultural use. The term includes a woodlot and land which is~~  
2 ~~rented to another person and used for the purpose of producing~~  
3 ~~an agricultural commodity.~~

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

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

7 CHAPTER 1

8 GENERAL PROVISIONS

9 SEC.

10 101. (RESERVED).

11 102. (RESERVED).

12 103. DEFINITIONS.

13 § 101. (RESERVED).

14 § 102. (RESERVED).

15 § 103. DEFINITIONS.

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

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

23 "CONDEMNEE." THE OWNER OF A PROPERTY INTEREST TAKEN, INJURED  
24 OR DESTROYED. THE TERM DOES NOT INCLUDE A MORTGAGEE, JUDGMENT  
25 CREDITOR OR OTHER LIENHOLDER.

26 "CONDEMNOR." THE ACQUIRING AGENCY, INCLUDING THE  
27 COMMONWEALTH, THAT TAKES, INJURES OR DESTROYS PROPERTY UNDER  
28 AUTHORITY OF LAW FOR A PUBLIC PURPOSE.

29 CHAPTER 3

30 PROCEDURE TO CONDEMN

1 SEC.

2 301. (RESERVED).

3 302. (RESERVED).

4 303. (RESERVED).

5 304. (RESERVED).

6 305. (RESERVED).

7 306. (RESERVED).

8 307. (RESERVED).

9 308. (RESERVED).

10 309. (RESERVED).

11 310. ABANDONMENT OF PROJECT.

12 § 301. (RESERVED).

13 § 302. (RESERVED).

14 § 303. (RESERVED).

15 § 304. (RESERVED).

16 § 305. (RESERVED).

17 § 306. (RESERVED).

18 § 307. (RESERVED).

19 § 308. (RESERVED).

20 § 309. (RESERVED).

21 § 310. ABANDONMENT OF PROJECT.

22 (A) DISPOSITION OF PROPERTY.--IF A CONDEMNOR HAS CONDEMNED A  
23 FEE AND THEN ABANDONS THE PURPOSE FOR WHICH THE PROPERTY HAS  
24 BEEN CONDEMNED, THE CONDEMNOR MAY DISPOSE OF IT BY SALE, LEASE,  
25 GIFT, DEVISE OR OTHER TRANSFER WITH THE FOLLOWING RESTRICTIONS:

26 (1) IF THE PROPERTY IS UNDEVELOPED OR HAS NOT BEEN  
27 SUBSTANTIALLY IMPROVED, IT MAY NOT BE DISPOSED OF WITHIN  
28 THREE YEARS AFTER CONDEMNATION WITHOUT FIRST BEING OFFERED TO  
29 THE CONDEMNEE AT THE SAME PRICE PAID TO THE CONDEMNEE BY THE  
30 CONDEMNOR.

1           (2) IF THE PROPERTY IS LOCATED OUTSIDE THE CORPORATE  
2     BOUNDARIES OF A COUNTY OF THE FIRST OR SECOND CLASS AND IS  
3     UNDEVELOPED OR HAS NOT BEEN SUBSTANTIALLY IMPROVED AND WAS  
4     DEVOTED TO AGRICULTURAL USE AT THE TIME OF THE CONDEMNATION,  
5     IT MAY NOT BE DISPOSED OF WITHIN 30 YEARS AFTER CONDEMNATION  
6     WITHOUT FIRST BEING OFFERED TO THE CONDEMNEE AT THE SAME  
7     PRICE PAID TO THE CONDEMNEE BY THE CONDEMNOR.

8           (3) IF THE PROPERTY IS UNDEVELOPED OR HAS NOT BEEN  
9     SUBSTANTIALLY IMPROVED AND THE OFFERS REQUIRED TO BE MADE  
10    UNDER PARAGRAPHS (1) AND (2) HAVE NOT BEEN ACCEPTED, THE  
11    PROPERTY SHALL NOT BE DISPOSED OF BY ANY CONDEMNOR, ACQUIRING  
12    AGENCY OR SUBSEQUENT PURCHASER FOR A NONPUBLIC USE OR PURPOSE  
13    FOR A PERIOD OF NO LESS THAN 30 YEARS FROM THE DATE OF  
14    ABANDONMENT OF THE PURPOSE FOR WHICH THE PROPERTY WAS  
15    ORIGINALLY CONDEMNED. UPON PETITION BY THE CONDEMNOR, THE  
16    COURT MAY PERMIT DISPOSAL OF THE PROPERTY IN LESS THAN 30  
17    YEARS UPON PROOF BY A PREPONDERANCE OF THE EVIDENCE THAT A  
18    CHANGE IN CIRCUMSTANCES HAS ABROGATED THE ORIGINAL PUBLIC  
19    PURPOSE FOR WHICH THE PROPERTY WAS TAKEN.

20        (B) NOTICE.--THE CONDEMNEE SHALL BE SERVED WITH NOTICE OF  
21    THE OFFER IN THE SAME MANNER AS PRESCRIBED FOR THE SERVICE OF  
22    NOTICES IN SECTION 405(B) OF THE ACT OF JUNE 22, 1964 (SP.SESS.,  
23    P.L.84, NO.6), KNOWN AS THE EMINENT DOMAIN CODE, AND SHALL HAVE  
24    90 DAYS AFTER RECEIPT OF NOTICE TO MAKE WRITTEN ACCEPTANCE.

25        (C) CERTAIN CONDITIONAL OFFERS PROHIBITED.--THE CONDEMNOR  
26    MAY NOT CONDITION ANY OFFER REQUIRED TO BE MADE TO A CONDEMNEE  
27    UNDER SUBSECTION (A) ON THE PAYMENT BY THE CONDEMNEE OF  
28    ADDITIONAL FEES, REAL ESTATE TAXES OR PAYMENTS IN LIEU OF TAXES  
29    OR OTHER COSTS.

30        (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING

WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
SUBSECTION:

"AGRICULTURAL COMMODITY." ANY OF THE FOLLOWING:

(1) AGRICULTURAL, APICULTURAL, AQUACULTURAL,  
HORTICULTURAL, FLORICULTURAL, SILVICULTURAL, VITICULTURAL AND  
DAIRY PRODUCTS.

(2) PASTURE.

(3) LIVESTOCK AND THE PRODUCTS THEREOF.

(4) RANCH-RAISED FURBEARING ANIMALS AND THE PRODUCTS  
THEREOF.

(5) POULTRY AND THE PRODUCTS OF POULTRY.

(6) PRODUCTS COMMONLY RAISED OR PRODUCED ON FARMS WHICH  
ARE:

(I) INTENDED FOR HUMAN CONSUMPTION; OR

(II) TRANSPORTED OR INTENDED TO BE TRANSPORTED IN  
COMMERCE.

(7) PROCESSED OR MANUFACTURED PRODUCTS OF PRODUCTS  
COMMONLY RAISED OR PRODUCED ON FARMS WHICH ARE:

(I) INTENDED FOR HUMAN CONSUMPTION; OR

(II) TRANSPORTED OR INTENDED TO BE TRANSPORTED IN  
COMMERCE.

"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.

1       SECTION 2.   (A)   THE GENERAL ASSEMBLY DECLARES THAT THE  
2   REPEAL UNDER SUBSECTION (B) IS NECESSARY TO EFFECTUATE THE  
3   ADDITION OF 26 PA.C.S. § 310.

4       (B)   SECTION 410 OF THE ACT OF JUNE 22, 1964 (SP.SESS.,  
5   P.L.84, NO.6), KNOWN AS THE EMINENT DOMAIN CODE, IS REPEALED.

6       SECTION 3.   THIS ACT SHALL TAKE EFFECT IN 60 DAYS.