
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2468 Session of
2018

INTRODUCED BY KAMPF, HARPER, TOEPEL, BARRAR, CHARLTON, CORBIN,
CORR, DRISCOLL, FARRY, LAWRENCE, MILLARD, B. MILLER, QUIGLEY,
READSHAW, ROE, VITALI, STAATS, V. BROWN AND MALONEY,
JUNE 6, 2018

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JUNE 6, 2018

AN ACT

1 Amending Title 26 (Eminent Domain) of the Pennsylvania
2 Consolidated Statutes, in limitations on use of eminent
3 domain, further providing for definitions and providing for
4 eminent domain of land subject to conservation easement.

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

7 Section 1. Section 202 of Title 26 of the Pennsylvania
8 Consolidated Statutes is amended by adding definitions to read:

9 § 202. Definitions.

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

13 * * *

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

17 * * *

18 "Open space benefits." The benefits to the residents of the

1 Commonwealth and its local government units which result from
2 the preservation or restriction of the use of selected
3 predominantly undeveloped open spaces or areas, including, but
4 not limited to:

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

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

12 (3) the protection and conservation of farmland;

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

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

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

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

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

24 * * *

25 Section 2. Title 26 is amended by adding a section to read:
26 § 208. Eminent domain of land subject to conservation easement.

27 (a) Approval required.--No agency of the Commonwealth,
28 political subdivision, authority, public utility or other body
29 having or exercising powers of eminent domain shall condemn any
30 land subject to a conservation easement for any purpose, unless

1 prior approval has been obtained from the orphans' court of the
2 county in which the land is located. The condemnation approval
3 specified by this subsection shall not be required for an
4 underground public utility facility that does not permanently
5 impact the open space benefits protected by the conservation
6 easement.

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

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

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

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

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

29 (g) Emergencies exception.--This section shall not apply to
30 any emergency project which is immediately necessary for the

1 protection of life or property.

2 Section 3. This act shall take effect in 60 days.