

CITIES AUTHORIZED TO APPROPRIATE LAND FOR BRIDGES
Act of May 26, 1893, P.L. 139, No. 89

Cl. 11

AN ACT

Authorizing cities of the Commonwealth of Pennsylvania to enter upon, take, use and appropriate private property for the construction of piers, abutments, fills, slopes and approaches for bridges crossing rivers within the corporate limits thereof, and providing the manner in which compensation shall be made.

Compiler's Note: Section 4701 of Act 317 of 1931 provided that Act 89 is repealed insofar as it relates to third class cities.

Section 1. Be it enacted, &c., That it shall be lawful, and the right is hereby given to the cities of this Commonwealth to enter upon, take, use and appropriate private property for the purpose of constructing and maintaining all such piers, abutments, fills, slopes and approaches as shall be found necessary in the erection, construction and maintenance of such bridges as shall be authorized and constructed by such cities, within their corporate limits, over any stream or river which shall separate any parts or portions of such city.

Section 2. If the compensation and damages arising from any such taking, using and appropriating of private property cannot be agreed upon by the owners thereof and such cities, it shall be lawful for such city to tender the bond thereof as security to the party claiming or entitled to any damages, or to the attorney or agent of any absent person, or to the agent or other officers of a corporation, or to the guardian or committee of any one under legal incapacity, the condition of which shall be that the said city shall pay, or cause to be paid, such amount of damages as the party shall be entitled to receive, after the same shall be agreed upon or assessed in the manner provided by this act. In case the party or parties claiming damages refuse, or do not accept the security so tendered, the said city shall then give the party, his, or their agent, attorney, guardian or committee, written notice of the time when the same will be presented in the court for approval, and thereafter the said city may present said security to the court of common pleas of the county where the lands or other property are situated, and when approved, the said security shall be filed in said court for the benefit of those interested, and recovery may be had thereon for the amount of damages assessed, if the same be not paid, or cannot be made by execution on the judgment in the issue formed to try the question, and upon the approval of said security said city may proceed with the said work.

Section 3. In case the compensation for damages accruing from such appropriation have not been agreed upon any court of common pleas of the proper county, or any law judge thereof in vacation, on application thereto by said city or any person interested, shall appoint three discreet and disinterested

freeholders as viewers and appoint a time, not less than ten nor more than twenty days thereafter, when said viewers shall meet upon the property and view the same and the premises affected thereby. The said viewers shall give at least ten days' personal notice of the time of their first meeting upon the owners, agents, attorneys or representatives thereof, if the same reside within the county in which such city is located, otherwise by handbills posted upon the premises or by such other notice as the court shall direct. The said viewers having been duly sworn or affirmed faithfully, justly and impartially to decide and true report to make concerning all matters and things to be submitted to them and in relation to which they are authorized to inquire under the provisions of this act, and having viewed the premises or examined the property shall hear all parties interested and their witnesses and shall estimate and determine the damages for the property taken, injured or destroyed, to whom the same are payable, and having due regard to the advantages and disadvantages; they shall give at least ten days notice thereof in the manner herein provided to all parties interested of the time and place when said viewers will meet and exhibit said report and hear all exceptions thereto. After making whatever changes are deemed necessary the said viewers shall make report to the court, showing the damages, if any allowed, and file therewith a plan showing the location of said bridge, or bridges, the properties taken, injured or destroyed, and the names of the persons to whom such damages are payable.

Section 4. Upon the report of said viewers, or any two of them, being filed in said court any party may, within thirty days thereafter, file exceptions to the same, and the court shall have power to confirm said report, or to modify, change, or otherwise correct the same, or refer the same back to the same or new viewers with like power as to their report. Or within thirty days from the filing of any report in court, or the final action of the court upon the exceptions, any party whose property is taken, injured or destroyed, may appeal and demand a trial by jury, and any party interested therein may, within thirty days after final decree, have an appeal. If no exceptions are filed, or no demands made for trial by jury within the said thirty days after the filing of said report, the same shall become absolute. The said court of common pleas shall have power to order what notices shall be given in connection with any part of said proceedings and may make all such orders as it may deem requisite. (4 repealed in part Jun. 3, 1971, P.L.118, No.6)

Section 5. The viewers provided for in the foregoing sections may be appointed before, or at any time after, the entry, taking appropriation, or injury of any property or materials for constructing said bridge or bridges.

The costs of the viewers and all court costs incurred in the proceedings aforesaid shall be defrayed by the said city, and each of the said viewers shall be entitled to a sum, not exceeding five dollars per day, for every day necessarily employed in performance of the duties herein prescribed.