
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 254 Session of
1989

INTRODUCED BY CALTAGIRONE, NAHILL, WAMBACH, KOSINSKI, BILLOW,
NOYE, FOX, McVERRY, HALUSKA, JOSEPHS, SEMMEL, PHILLIPS,
MORRIS, PISTELLA, DeWEESE, BELARDI, CORRIGAN, COLAIZZO,
DALEY, VEON, GIGLIOTTI, OLASZ, COLAFELLA, BISHOP, RICHARDSON
AND HOWLETT FEBRUARY 6, 1989

SENATOR TILGHMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, MARCH 14, 1989

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 the
4 definition of "displaced person," for moving and related
5 expenses of displaced persons, for replacement housing and
6 for issuance of regulations.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 201(5) and (8) of the act of June 22,
10 1964 (Sp.Sess., P.L.84, No.6), known as the Eminent Domain Code,
11 amended December 29, 1971 (P.L.635, No.169), are amended and the
12 section is amended by adding definitions to read:

13 Section 201. Definitions.--The following words, when used in
14 this act, unless the context clearly indicates otherwise, shall
15 have the meanings ascribed to them in this section:

16 * * *

17 (5) "Acquiring agency" means any entity vested with the

1 power of eminent domain by the laws of the Commonwealth,
2 including the Commonwealth. For purposes of Article VI-A,
3 ~~"acquiring agency" shall also mean an agency or person carrying~~ <—
4 ~~out a program or project, funded in whole or in part by the~~
5 ~~Federal Government, which causes a person to be a displaced~~
6 ~~person.~~ "ACQUIRING AGENCY" SHALL ALSO INCLUDE OTHER AGENCIES OR <—
7 PERSONS WHICH ARE CARRYING OUT A PROGRAM OR PROJECT TO THE
8 EXTENT THAT THEY CAUSE A PERSON TO BECOME A DISPLACED PERSON.

9 * * *

10 [(8) "Displaced person" means any condemnee or other person
11 not illegally in occupancy of real property who moves or moves
12 his personal property as a result of the acquisition for a
13 program or project of such real property, in whole or in part,
14 or as the result of written notice from the acquiring agency of
15 intent to acquire or order to vacate such real property; and
16 solely for the purpose of subsections (a) and (b)(1) and (b)(4)
17 of section 601-A, as a result of such acquisition or written
18 notice of intent to acquire or order to vacate other real
19 property on which such person conducts a business or farm
20 operation.]

21 (8) "Displaced person"

22 (i) Means:

23 (A) Any condemnee or other person who moves from real
24 property or moves his personal property from real property:

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

29 (II) on which such person is a residential tenant or
30 conducts a small business, a farm operation or a business as

1 defined in section 201(7)(iv) as a direct result of
2 rehabilitation, demolition, or such other displacing activity as <—
3 may be prescribed by regulation, under a program or project
4 undertaken by an acquiring agency in any case in which the
5 acquiring agency determines that such displacement is permanent. <—

6 (B) Solely for the purpose of section 601-A(a)(1) and (2) of
7 this act, any person who moves from real property or moves his
8 personal property:

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

14 (II) as a direct result of rehabilitation, demolition, or
15 such other displacing activity as may be prescribed by <—
16 regulation, of other real property on which such person conducts
17 a business or a farm operation, under a program or project
18 undertaken by an acquiring agency where the acquiring agency <—
19 determines that such displacement is permanent.

20 (C) A person who was in occupancy of the real property on or
21 before the date of acquisition notwithstanding the termination
22 or expiration of a lease entered into before or after the event
23 giving rise to the displacement.

24 (ii) Does not include:

25 (A) a person who has been determined, according to criteria <—
26 established by regulation, to be either unlawfully occupying the
27 displacement dwelling or to have occupied the dwelling for the
28 purpose of obtaining assistance under this act; or UNLAWFULLY <—
29 OCCUPIES THE DISPLACEMENT DWELLING OR OCCUPIED THE DWELLING FOR
30 THE PURPOSE OF OBTAINING ASSISTANCE UNDER THIS ACT; OR

1 (B) in any case in which the acquiring agency acquires
2 property for a program or project, a person (other than a person
3 who was an occupant of such property at the time it was
4 acquired) who occupies the property on a rental basis for a
5 short term or a period subject to termination when the property
6 is needed for the program or project.

7 * * *

8 (13) "Comparable replacement dwelling" means a dwelling that
9 is:

- 10 (i) decent, safe and sanitary;
11 (ii) adequate in size to accommodate the occupants;
12 (iii) within the financial means of the displaced person;
13 (iv) functionally equivalent;
14 (v) in an area not subject to unreasonable adverse
15 environmental conditions; and
16 (vi) in a location generally not less desirable than the
17 location of the displaced person's dwelling with respect to
18 public utilities, facilities, services and the displaced
19 person's place of employment.

20 (14) "Small business" means a business having not more than
21 five hundred employees working at the site being acquired or
22 permanently displaced by a program or project.

23 Section 2. Sections 601-A, 602-A, 603-A and 604-A, added
24 December 29, 1971 (P.L.635, No.169), are amended to read:

25 Section 601-A. Moving and Related Expenses of Displaced
26 Persons.--(a) Any displaced person shall be reimbursed for
27 reasonable expenses incurred in moving himself and his family
28 and for the removal, transportation, and reinstallation of
29 personal property.

30 (1) Receipts therefor shall be prima facie evidence of

1 incurred reasonable moving expenses.

2 (2) Any displaced person who is displaced from a dwelling
3 may elect to receive, in lieu of reimbursement of incurred
4 moving expenses, a moving expense and dislocation allowance,
5 determined [according to a schedule established by the acquiring
6 agency, not to exceed three hundred dollars (\$300), and a
7 dislocation allowance of two hundred dollars (\$200)] in
8 accordance with regulations promulgated under this act.

9 (b) Any displaced person who is displaced from his place of
10 business or from his farm operation shall be entitled, in
11 addition to any payment received under subsection (a) of this
12 section, to damages for dislocation of such business or farm
13 operation as follows:

14 (1) Actual direct losses with reference to personal
15 property, but not to exceed the greater of (i) the reasonable
16 expenses which would have been required to relocate such
17 personal property, or (ii) the value in place of such personal
18 property as cannot be moved without substantially destroying or
19 diminishing its value, whether because of the unavailability of
20 a comparable site for relocation or otherwise, or without
21 substantially destroying or diminishing its utility in the
22 relocated business or farm operation.

23 (2) In lieu of the damages provided in clause (1) hereof, at
24 the option of the displaced person, an amount not to exceed ten
25 thousand dollars (\$10,000) to be determined by taking fifty per
26 cent of the difference if any, between the original cost of the
27 personal property to the displaced person or the replacement
28 cost of equivalent property at the time of sale, whichever is
29 lower, and the net proceeds obtained by the displaced person at
30 a commercially reasonable private or public sale. If this option

1 is selected, the displaced person shall give the acquiring
2 agency not less than sixty days notice in writing of his
3 intention to seek damages under this option. The displaced
4 person shall not, directly or indirectly, purchase any of the
5 personal property at private sale. Inventory shall be paid for
6 under this option only if the business is not relocated.

7 [(3) In addition to damages under clauses (1) or (2) of this
8 subsection, damages of not more than ten thousand dollars
9 (\$10,000) nor less than twenty-five hundred dollars (\$2,500), in
10 an amount equal to either (i) forty times the actual monthly
11 rental, in the case of a tenant, or forty times the fair monthly
12 rental value, in the case of owner-occupancy; or (ii) the
13 average annual net earnings, whichever is greater. For the
14 purposes of this subsection, the term "average annual net
15 earnings" means one-half of any net earnings of the business or
16 farm operation before Federal, State, and local income taxes,
17 during the two taxable years immediately preceding the taxable
18 year in which such business or farm operation moves from the
19 real property acquired for such project, and includes any
20 compensation paid by the business or farm operation to the
21 owner, his spouse, or his dependents during such period. The
22 regulations promulgated under section 604-A may designate
23 another period determined to be more equitable for establishing
24 average annual net earnings, provided the designation of such
25 period does not produce a lesser payment than would use of the
26 last two taxable years. In the case of a business, payment shall
27 be made under this subsection only if the business (i) cannot be
28 relocated without a substantial loss of its existing patronage,
29 and (ii) is not a part of a commercial enterprise having at
30 least one other establishment not being acquired by the

1 acquiring agency, which is engaged in the same or similar
2 business.

3 (4) In addition to damages under clauses (1) or (2) and (3)
4 of this subsection, actual reasonable expenses incurred in
5 searching for a replacement business or farm.]

6 (3) Actual reasonable expenses in searching for a
7 replacement business or farm determined in accordance with
8 regulations promulgated under this act.

9 (4) Actual reasonable expenses necessary to reestablish a
10 displaced farm, nonprofit organization or small business at its
11 new site, in accordance with criteria to be established by
12 regulation, but not to exceed ten thousand dollars (\$10,000).

13 (5) In lieu of damages under subsection (a) and clause (1),
14 (2), (3) or (4) of this subsection, damages in an amount equal
15 to the average annual net earnings but not more than twenty
16 thousand dollars (\$20,000) nor less than one thousand dollars
17 (\$1,000). The term "average annual net earnings" means one-half
18 of any net earnings of the business or farm operation before
19 Federal, State and local income taxes during the two taxable
20 years immediately preceding the taxable year in which the
21 business or farm operation moves from the real property acquired
22 for a project, and includes any compensation paid by the
23 business or farm operation to the owner, his spouse or his
24 dependents during this period. The regulations promulgated under
25 section 604-A of this act may designate another period
26 determined to be more equitable for establishing average annual
27 net earnings provided the designation of the period does not
28 produce a lesser payment than would use of the last two taxable
29 years. Payment shall be made only if the business cannot be
30 relocated without a substantial loss of profits. A person whose

1 sole business at a dwelling from which he is displaced is the
2 rental of such property to others shall not qualify for a
3 payment under this clause.

4 Section 602-A. Replacement Housing for Homeowners.--(a) In
5 addition to payments otherwise authorized, the acquiring agency
6 shall make an additional payment not in excess of [fifteen
7 thousand dollars (\$15,000)] twenty-two thousand five hundred
8 dollars (\$22,500) to any displaced person who is displaced from
9 a dwelling actually owned and occupied by such displaced person
10 for not less than one hundred eighty days prior to the
11 initiation of negotiations for the acquisition of the property
12 or the receipt of written notice from the acquiring agency of
13 intent to acquire or order to vacate. Such additional payment
14 shall include the following elements:

15 (1) The amount, if any, which, when added to the acquisition
16 cost of the acquired dwelling, equals the reasonable cost of a
17 comparable replacement dwelling which is [a decent, safe, and
18 sanitary dwelling adequate to accommodate such displaced person,
19 reasonably accessible to public services and his place of
20 employment and] available to such displaced person on the
21 private market.

22 (2) The amount, if any, [as hereinafter provided,] which
23 will compensate such displaced person for any increased interest
24 and other debt service costs, which such person is required to
25 pay for financing the acquisition of any such comparable
26 replacement dwelling. [Such amount shall be equal to the excess
27 in the aggregate interest and other debt service costs of that
28 amount on the principal of the installment purchase contract,
29 mortgage or other evidence of debt on the replacement dwelling
30 which is equal to the unpaid balance of the installment purchase

1 contract, mortgage or other evidence of debt on the acquired
2 dwelling over the remaining term of the installment purchase
3 contract, mortgage or other evidence of debt on the acquired
4 dwelling reduced to discounted present value. The discount rate
5 shall be the prevailing interest rate paid on savings deposits
6 by commercial banks in the general area in which the replacement
7 dwelling is located.] Such amount shall be paid only if the
8 acquired dwelling was subject to an installment purchase
9 contract or encumbered by a bona fide installment purchase
10 contract, mortgage or other evidence of debt secured by the
11 dwelling which was a valid lien on such dwelling for not less
12 than one hundred eighty days immediately prior to the initiation
13 of negotiations for the acquisition of such dwelling.

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

19 (b) The additional payment authorized by this section shall
20 be made only to such a displaced person who purchases and
21 occupies a replacement dwelling, which is decent, safe,
22 sanitary, and adequate to accommodate such displaced person, not
23 later than the end of the one-year period beginning on the date
24 on which he receives final payment of his full acquisition cost
25 for the acquired dwelling, or on the date on which he moves from
26 the acquired dwelling, whichever is the later date. Regulations
27 issued pursuant to section 604-A may prescribe situations when
28 such one-year period may be extended. If the period is extended,
29 the payment under this section shall be based on the costs of
30 relocating the person to a comparable replacement dwelling

1 within one year of the date on which he received final payment
2 of his full acquisition cost for the acquired dwelling.

3 (c) The person entitled under this section shall have the
4 right to elect the benefits available under section 603-A in
5 lieu of those provided by this section.

6 Section 603-A. Replacement Housing for Tenants and Others.--

7 (a) (1) In addition to amounts otherwise authorized, an
8 acquiring agency shall make a payment to or for any displaced
9 person displaced from a dwelling not eligible to receive a
10 payment under section 602-A which dwelling was actually and
11 lawfully occupied by such displaced person for not less than
12 ninety days prior to the initiation of negotiations for
13 acquisition of such dwelling or the receipt of written notice
14 from the acquiring agency of intent to acquire or order to
15 vacate. Such payment shall be [either:

16 (1) The] the amount determined to be necessary to enable
17 such displaced person to lease for a period not to exceed [four
18 years] forty-two months a [decent, safe, and sanitary]
19 comparable replacement dwelling [adequate to accommodate such
20 person in areas not generally less desirable in regard to public
21 utilities and public and commercial facilities, and reasonably
22 accessible to his place of employment]. Such amount shall be the
23 additional amount, if any, over the actual rental or fair rental
24 value of the acquired dwelling as determined in accordance with
25 regulations promulgated under section 604-A but not to exceed
26 [four thousand dollars (\$4,000); or

27 (2) The amount necessary to enable such person to make a
28 down payment, which shall mean the equity payment in excess of
29 the maximum amount of conventional financing available to such
30 displaced person, plus those expenses described in section 602-

1 A(a)(3), on the purchase of a decent, safe, and sanitary
2 dwelling adequate to accommodate such person in areas not
3 generally less desirable in regard to public utilities and
4 public and commercial facilities, but not to exceed four
5 thousand dollars (\$4,000), except that if such amount exceeds
6 two thousand dollars (\$2,000) such person must equally match
7 such amount in excess of two thousand dollars (\$2,000) in making
8 the down payment] five thousand two hundred fifty dollars
9 (\$5,250).

10 (2) Any person eligible for a payment under clause (1) may
11 elect to apply the payment to a down payment on, and other
12 incidental expenses pursuant to, the purchase of a decent, safe,
13 and sanitary replacement dwelling.

14 (b) The additional payment authorized by this section shall
15 be made only to such a displaced person who occupies a
16 replacement dwelling which is decent, safe[,] and sanitary[, and
17 adequate to accommodate such displaced person].

18 Section 604-A. Issuance of Regulations to Implement this
19 Article.--The [Attorney General] Office of General Counsel shall
20 promulgate such rules and regulations as may be necessary to
21 assure:

22 (1) That the payments authorized by this article shall be
23 made in a manner which is fair and reasonable, and as uniform as
24 practicable;

25 (2) That a displaced person who makes proper application for
26 a payment authorized for such person by this article shall be
27 paid promptly after a move or, in hardship cases, be paid in
28 advance;

29 (3) That any person aggrieved by a determination as to
30 eligibility for a payment authorized by this article, or the

1 amount of a payment, may elect to have his application reviewed
2 by the head of the acquiring agency or his designee;

3 (4) That each displaced person shall receive the maximum
4 payments authorized by this article; and

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

8 Section 3. If this act is enacted after April 1, 1989, it
9 shall be applied retroactively to April 1, 1989.

10 Section 4. This act shall take effect ~~as follows:~~ <—

11 ~~(1) Section 2 (section 601 A(2)) shall take effect on~~
12 ~~the effective date of the regulations promulgated by the~~
13 ~~Office of General Counsel under section 2 (section 604 A).~~

14 ~~(2) The remainder of this act shall take effect~~
15 immediately.