
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1215 Session of 1995

INTRODUCED BY STRITTMATTER, SCHULER, BELARDI, SEMMEL, WOGAN,
TULLI, BUNT, GEIST, MERRY, GODSHALL, HENNESSEY, CLARK, BROWNE
AND TRELLO, MARCH 16, 1995

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 16, 1995

AN ACT

1 Providing for actions in certain cases by owners of real
2 property for damages caused by the implementation of
3 regulatory programs.

4 The General Assembly finds and declares as follows:

5 (1) From time to time State and local regulatory
6 programs have the effect of reducing the market value of
7 private property.

8 (2) When State and local regulatory programs reduce the
9 market value of private property and do not through their
10 implementation abate a public nuisance affecting the public
11 health, safety, morals or general welfare, it is fair and
12 appropriate that the Commonwealth or the locality compensate
13 the property owner for the loss in market value of the
14 property caused by the implementation of the regulatory
15 program.

16 (3) Compensation to the property owner is also fair and
17 appropriate in cases involving regulatory programs which
18 abate a public nuisance when the property owner neither

1 contributed to the public nuisance nor acquired the property
2 knowing of the public nuisance nor acquired the property in
3 circumstances where the property owner should have known
4 about the nuisance based upon prevailing community standards.

5 (4) In order to establish a fair and equitable
6 compensation system to address these stated public policy
7 concerns and findings, there is hereby established a
8 compensation system in this act.

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

11 Section 1. Short title.

12 This act shall be known and may be cited as the Private
13 Property Protection Act.

14 Section 2. Inverse condemnation.

15 (a) Reduction in fair market value.--Whenever implementation
16 by the State or any of its political subdivisions of any
17 regulatory program operates to reduce the fair market value of
18 real property, the property shall be deemed to have been taken
19 for the use of the public. Regulatory programs include, but are
20 not limited to, land-use planning, public environmental
21 protection or zoning programs.

22 (b) Program implementation.--A program is implemented with
23 respect to an owner's property when actually applied to that
24 property unless the enactment of the program by itself operates
25 to reduce the fair market value of real property.

26 (c) Required condemnation.--The owner shall have the right
27 to require condemnation by and just compensation from the
28 governmental entity, or entities when more than one governmental
29 entity is involved, imposing the regulation resulting in
30 decreased value, or to receive compensation for the reduction in

1 value caused by government action and in either case to have the
2 amount of compensation determined by a board of arbitrators
3 appointed by the court of common pleas for the county in which
4 the condemnation proceeding occurs.

5 (d) Compensation.--The compensation shall be for the full
6 value of the interest taken or for the full amount of the
7 decrease in fair market value caused by the implementation of
8 the regulatory program.

9 (e) Waivers.--Governmental entities subject to the
10 provisions of this act shall not make waiver of the provisions
11 of this act a condition for approval of the use of real property
12 or the issuance of any permit or other entitlement. Owners may
13 accept an approval of use, permit or other entitlement granted
14 by the governmental entity without compromising their rights
15 under this act if:

16 (1) a written reservation of rights is made at the time
17 of acceptance of said authorization, permit or other
18 entitlement; or

19 (2) by oral statement made before the governmental
20 entity granting the authorization, permit or other
21 entitlement at a public meeting at which the governmental
22 entity renders its decision.

23 (f) Form of reservation.--An owner may make the reservation
24 in either or both forms.

25 Section 3. Exceptions.

26 No compensation shall be required by virtue of this act if
27 the implementation of a regulatory program abates a public
28 nuisance, unless the property owner neither has contributed to
29 the public nuisance nor has acquired the property knowing of the
30 existence of the public nuisance nor acquired the property in

1 circumstances where the property owner should have known about
2 the nuisance, in which case compensation shall be required.

3 Section 4. Statute of limitations.

4 (a) Applicable statute.--The statute of limitations for
5 actions brought pursuant to this section shall be the statute of
6 limitations for ordinary actions brought for injuries to real
7 property. The statute of limitations shall begin to run upon the
8 final administrative decision implementing the regulatory
9 program affecting plaintiff's property.

10 (b) Applicability of act.--This act shall apply to the
11 current implementation of existing regulatory programs as well
12 as to the future implementation of any existing or future
13 regulatory program.

14 Section 5. Regulatory rollback.

15 If the governmental entity of which inverse condemnation is
16 successfully required under section 2 is unwilling or unable to
17 pay the costs awarded, it may instead roll back the land-use
18 planning, zoning or other regulatory program as it affects the
19 plaintiff's land to the previous level of regulation. In that
20 event the governmental unit shall be liable to the plaintiff
21 landowner for the reasonable and necessary costs of the inverse
22 condemnation action, plus any actual and demonstrable economic
23 losses caused the plaintiff by the regulation during the period
24 in which it was in effect.

25 Section 6. Legal challenges.

26 Nothing in this act shall be construed to preclude property
27 owners from bringing legal challenges to regulatory programs
28 affected by this act based on other provisions of law.

29 Section 7. Costs and fees.

30 In an inverse condemnation proceeding, the costs shall be

1 borne by the party which did not prevail. Attorney fees shall be
2 awarded to the initiating party, if that party prevails.

3 Section 8. Tax adjustment.

4 Whenever the State or any of its political subdivisions
5 impose, change, or implement any land-use planning, public
6 environmental protection, zoning or other regulatory program in
7 a way as to reduce the previous fair market value of the
8 property, it shall, on or before the ensuing January 1, cause
9 the governmental entity assessing the subject property for the
10 purposes of taxation to reduce the assessed valuation of the
11 property by an amount equal to the difference between the fair
12 market value of the property under the new regulatory program
13 and the previous fair market value.

14 Section 9. Effective date.

15 This act shall take effect in 60 days.