

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 401 Session of
2003

INTRODUCED BY PRESTON, BELFANTI, CAPPELLI, CREIGHTON, CRUZ,
DeLUCA, HARHAI, HORSEY, JAMES, LAUGHLIN, LEH, McCALL, MYERS,
READSHAW, ROHRER, SOLOBAY, STABACK, E. Z. TAYLOR, THOMAS,
WALKO AND YOUNGBLOOD, FEBRUARY 24, 2003

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 24, 2003

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 measure of damages.

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

7 Section 1. Section 602 of the act of June 22, 1964
8 (Sp.Sess., P.L.84, No.6), known as the Eminent Domain Code,
9 amended September 27, 1973 (P.L.249, No.71) and July 13, 1979
10 (P.L.103, No.42), is amended to read:

11 Section 602. Measure of Damages.--(a) Just compensation for
12 real property shall consist of the difference between the fair
13 market value of the condemnee's [entire] real property interest
14 immediately before the condemnation and as unaffected thereby
15 and the fair market value of his real property interest
16 remaining immediately after such condemnation and as affected
17 thereby, and such other damages as are provided in this code.

18 (a.1) Just compensation for a building shall consist of the

1 difference between the replacement cost of the condemnee's
2 building immediately before the condemnation and as unaffected
3 thereby and the replacement cost of his building remaining
4 immediately after such condemnation and as affected thereby, and
5 such other damages as are provided in this code. As used in this
6 subsection, the term "replacement cost" shall mean the actual
7 cash value of the property at the time of condemnation, but not
8 exceeding the amount which it would cost to repair or replace
9 the property with material of like kind and quality within a
10 reasonable time, without allowance for any increased cost of
11 repair or reconstruction by reason of any ordinance or law
12 regulating construction or repair, and without compensation for
13 loss resulting from interruption of business or manufacture.

14 (b) In case of the condemnation of property in connection
15 with any urban development or redevelopment project, which
16 property is damaged by subsidence due to failure of surface
17 support resulting from the existence of mine tunnels or
18 passageways under the said property, or by reason of fires
19 occurring in said mine tunnels or passageways or of burning coal
20 refuse banks, the damage resulting from such subsidence or
21 underground fires or burning coal refuse banks shall be excluded
22 in determining the fair market value of the condemnee's entire
23 property interest therein immediately before the condemnation.

24 (c) In case of the condemnation of property in connection
25 with any program or project which property is damaged by any
26 natural disaster, the damage resulting therefrom shall be
27 excluded in determining fair market value of the condemnee's
28 entire property interest therein immediately before the
29 condemnation.

30 (d) In the case of property which was damaged by any natural

1 disaster, an acquiring agency may acquire the entire property
2 interest of a condemnee, except any improvements made since the
3 date of such natural disaster, and reconvey to the condemnee a
4 portion of the property interest taken; in which case the damage
5 shall be the difference between the value of the property
6 interest acquired, excluding damage resulting from such natural
7 disaster, and the value of the property interest reconveyed. For
8 the purposes of this act, all mobile homes which were in use as
9 dwellings and were destroyed, demolished or damaged beyond
10 reasonable repair by any natural disaster shall be considered to
11 be real property.

12 (e) Subsections (c) and (d) are applicable only where the
13 damage resulting from such natural disaster has occurred within
14 three years prior to the initiation of negotiations for or
15 notice of intent to acquire or order to vacate the property and
16 during the ownership of the property by the condemnee. The
17 damage to be excluded shall include only actual physical damage
18 to the property for which the condemnee has not received any
19 compensation or reimbursement.

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