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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 881**      Session of  
2005

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INTRODUCED BY PICCOLA, BRIGHTBILL, WONDERLING, JUBELIRER,  
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THOMPSON, WAUGH, C. WILLIAMS AND ORIE, OCTOBER 3, 2005

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REFERRED TO STATE GOVERNMENT, OCTOBER 3, 2005

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AN ACT

1 Amending Title 26 (Eminent Domain) of the Pennsylvania  
2 Consolidated Statutes, providing for limitations on the use  
3 of eminent domain; and making a related repeal.

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

6 Section 1. Title 26 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 2

9 LIMITATIONS ON USE OF EMINENT DOMAIN

10 Sec.

11 201. Short title of chapter.

12 202. Definitions.

13 203. Applicability.

14 204. Eminent domain for private business prohibited.

15 205. Eminent domain in redevelopment areas.

16 § 201. Short title of chapter.

17 This chapter shall be known and may be cited as the Property

1 Rights Protection Act.

2 § 202. Definitions.

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

6 "Commonwealth agency." As defined in 2 Pa.C.S. § 101  
7 (relating to definitions).

8 "Condemnee." A person that owns property subject to the  
9 exercise of the power of eminent domain by a condemnor.

10 "Condemnor." Any of the following which is authorized by law  
11 to exercise the power of eminent domain:

12 (1) The Commonwealth, a Commonwealth agency or an  
13 instrumentality or authority of the Commonwealth.

14 (2) A political subdivision, an agency of a political  
15 subdivision or an instrumentality or authority of a political  
16 subdivision.

17 (3) A public utility as defined in 66 Pa.C.S. § 102  
18 (relating to definitions).

19 (4) A private entity.

20 "Eminent domain." The power of the Commonwealth to take  
21 private property for public use in return for reasonable  
22 compensation.

23 "Redevelopment area." As defined in section 3(n) of the act  
24 of May 24, 1945 (P.L.991, No.385), known as the Urban  
25 Redevelopment Law.

26 § 203. Applicability.

27 (a) Authority.--Except as set forth in subsection (b), the  
28 limitations and protections set forth in this chapter apply to  
29 the exercise of eminent domain by a condemnor.

30 (b) Exception.--This chapter does not affect any of the

1 following:

2 (1) The jurisdiction or power of the Pennsylvania Public  
3 Utility Commission.

4 (2) Any statute providing for the assessment of benefits  
5 for public improvement on the properties benefited.

6 § 204. Eminent domain for private business prohibited.

7 (a) Prohibition.--Except as set forth in subsection (b), the  
8 exercise by any condemnor of the power of eminent domain to take  
9 private property in order to use it for private commercial  
10 enterprise is prohibited.

11 (b) Exception.--Subsection (a) does not apply if any of the  
12 following apply:

13 (1) The condemnee consents to the use of the property  
14 for private commercial enterprise.

15 (2) The property taken is transferred or leased to any  
16 of the following:

17 (i) A common carrier as defined in 66 Pa.C.S. § 102  
18 (relating to definitions).

19 (ii) A private entity that occupies an incidental  
20 area within a public project, such as a retail  
21 establishment on the ground floor of a public building.

22 (3) There is, on or associated with the property taken,  
23 a threat to public health or safety. This paragraph includes  
24 the following:

25 (i) Removal of a public nuisance.

26 (ii) Removal of a structure which is:

27 (A) beyond repair; or

28 (B) unfit for human habitation or use.

29 (4) The property taken is abandoned.

30 (5) The property taken meets the requirements of section

1       205 (relating to eminent domain in redevelopment areas).

2   § 205. Eminent domain in redevelopment areas.

3       (a) Scope.--This section applies notwithstanding the act of  
4 May 24, 1945 (P.L.991, No.385), known as the Urban Redevelopment  
5 Law.

6       (b) Single property.--For purposes of acquiring a single  
7 unit of property by eminent domain, a condemnor is authorized or  
8 permitted to declare an area, either within or outside of a  
9 redevelopment area, to be blighted only if the property is any  
10 of the following:

11           (1) A premises which, because of physical condition or  
12 use, is regarded as a public nuisance at common law or has  
13 been declared a public nuisance in accordance with the  
14 municipality housing, building, plumbing, fire or related  
15 codes.

16           (2) A premises which, because of physical condition, use  
17 or occupancy, is considered an attractive nuisance to  
18 children. This paragraph includes an abandoned:

- 19                   (i) well;  
20                   (ii) shaft;  
21                   (iii) basement;  
22                   (iv) excavation; or  
23                   (v) unsafe fence or structure.

24           (3) A dwelling which, because it is dilapidated,  
25 unsanitary, unsafe, vermin-infested or lacking in the  
26 facilities and equipment required by statute or an applicable  
27 municipal code, has been designated by the agency responsible  
28 for enforcement of the statute or code as unfit for human  
29 habitation.

30           (4) A structure which is a fire hazard or is otherwise

1 dangerous to the safety of persons or property.

2 (5) A structure from which the utilities, plumbing,  
3 heating, sewerage or other facilities have been disconnected,  
4 destroyed, removed or rendered ineffective so that the  
5 property is unfit for its intended use.

6 (6) Any vacant or unimproved lot or parcel of ground in  
7 a predominantly built-up neighborhood which, by reason of  
8 neglect or lack of maintenance, has become a place for  
9 accumulation of trash and debris or a haven for rodents or  
10 other vermin.

11 (7) An unoccupied property which has been tax delinquent  
12 for a period of two years.

13 (8) A property which is vacant but not tax delinquent  
14 and which has not been rehabilitated within one year of the  
15 receipt of notice to rehabilitate from the appropriate  
16 enforcement agency.

17 (9) An abandoned property. A property shall be  
18 considered abandoned under this paragraph if it:

19 (i) is a vacant or unimproved lot or parcel of  
20 ground on which a municipal lien for the cost of  
21 demolition of a structure located on the property remains  
22 unpaid for a period of six months;

23 (ii) is a vacant property or vacant or unimproved  
24 lot or parcel of ground on which the total of municipal  
25 liens on the property for tax or other type of claim of  
26 the municipality is in excess of 150% of the fair market  
27 value of the property as established by the Board of  
28 Revisions of Taxes or other body with legal authority to  
29 determine the taxable value of the property; or

30 (iii) has been declared abandoned by the owner,

1 including an estate that is in possession of the  
2 property.

3 (c) Multiple properties.--For purposes of acquiring multiple  
4 units of property by eminent domain, a condemnor is authorized  
5 or permitted to declare an area, either within or outside of a  
6 redevelopment area, to be blighted only if a majority of the  
7 units of property:

8 (1) meet any of the requirements under subsection (b)(1)  
9 through (9); and

10 (2) represent a majority of the geographical area.

11 (d) Redesignation.--If a condemnor seeks to add or enlarge a  
12 blighted area, it must find that the area meets the requirements  
13 of subsection (b) or (c) at the time of the addition or  
14 enlargement.

15 (e) Expiration.--The declaration of a blighted area shall  
16 expire after ten years.

17 Section 2. Repeals are as follows:

18 (1) The General Assembly declares that the repeal under  
19 paragraph (2) is necessary to effectuate the addition of 26  
20 Pa.C.S. § 205.

21 (2) As much of section 2 of the act of May 24, 1945  
22 (P.L.991, No.385), known as the Urban Redevelopment Law, as  
23 relates to condemnation of blighted areas, is repealed.

24 (3) All other acts and parts of acts are repealed  
25 insofar as they are inconsistent with this act.

26 Section 3. This act shall apply to the exercise of the power  
27 of eminent domain on or after the effective date of this  
28 section.

29 Section 4. This act shall take effect in 60 days.