

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1215 Session of  
2018

INTRODUCED BY DINNIMAN AND RAFFERTY, JUNE 22, 2018

REFERRED TO LOCAL GOVERNMENT, JUNE 22, 2018

AN ACT

1 Amending Title 26 (Eminent Domain) of the Pennsylvania  
2 Consolidated Statutes, in limitations on use of eminent  
3 domain, further providing for definitions and providing for  
4 eminent domain of land subject to conservation easement.

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

7 Section 1. Section 202 of Title 26 of the Pennsylvania  
8 Consolidated Statutes is amended by adding definitions to read:

9 § 202. Definitions.

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

13 \* \* \*

14 "Conservation easement." As defined under section 3 of the  
15 act of June 22, 2001 (P.L.390, No.29), known as the Conservation  
16 and Preservation Easements Act.

17 \* \* \*

18 "Open space benefits." The benefits to the residents of the  
19 Commonwealth and its local government units which result from

the preservation or restriction of the use of selected  
predominantly undeveloped open spaces or areas, including, but  
not limited to:

(1) the protection and conservation of water resources  
and watersheds, by appropriate means, including, but not  
limited to, preserving the natural cover, preventing floods  
and soil erosion, protecting water quality and replenishing  
surface and ground water supplies;

(2) the protection and conservation of forests and land  
being used to produce timber crops;

(3) the protection and conservation of farmland;

(4) the protection of existing or planned park,  
recreation or conservation sites;

(5) the protection and conservation of natural or scenic  
resources, including, but not limited to, soils, beaches,  
streams, flood plains, steep slopes or marshes;

(6) the protection of scenic areas for public visual  
enjoyment from public rights of way;

(7) the preservation of sites of historic, geologic or  
botanic interest; and

(8) the promotion of sound, cohesive and efficient land  
development by preserving open spaces between communities.

\* \* \*

Section 2. Title 26 is amended by adding a section to read:

§ 208. Eminent domain of land subject to conservation easement.

(a) Approval required.--No agency of the Commonwealth,  
political subdivision, authority, public utility or other body  
having or exercising powers of eminent domain shall condemn any  
land subject to a conservation easement for any purpose, unless  
prior approval has been obtained from the orphans' court of the

1 county in which the land is located. The condemnation approval  
2 specified by this subsection shall not be required for an  
3 underground public utility facility that does not permanently  
4 impact the open space benefits protected by the conservation  
5 easement.

6 (b) Determination of blight.--The exercise of eminent domain  
7 powers based on a condition of the land subject to a  
8 conservation easement shall not be authorized under section 205  
9 (relating to blight) unless the orphans' court determines the  
10 exercise is necessary to protect the health and safety of the  
11 community.

12 (c) Notice.--Any condemnor wishing to condemn property, the  
13 approval for which is required under this section, shall, at  
14 least 30 days prior to taking such action, notify the orphans'  
15 court that the action is contemplated.

16 (d) Review.--The orphans' court shall review the proposed  
17 condemnation and approve the proposed condemnation only if the  
18 court determines there is no reasonable and prudent alternative  
19 to the utilization of the land subject to a conservation  
20 easement for the project.

21 (e) Findings and decisions.--The orphans' court shall render  
22 findings and decisions of the court's review under subsection  
23 (d) and shall report the findings and decisions to the proposed  
24 condemnor.

25 (f) Injunctions.--The orphans' court may request the  
26 Attorney General to bring an action to enjoin a condemnor from  
27 violating any provision of this section.

28 (g) Emergencies exception.--This section shall not apply to  
29 any emergency project which is immediately necessary for the  
30 protection of life or property.

1       Section 3. The provisions of this act are severable. If any  
2 provision of this act or its application to any person or  
3 circumstance is held invalid, the invalidity shall not affect  
4 other provisions or applications of this act which can be given  
5 effect without the invalid provision or application.

6       Section 4. The following provisions shall apply to a  
7 condemnation for which a declaration of taking is filed after  
8 December 31, 2017:

9           (1) The addition of the definitions of "conservation  
10 easement" and "open space benefits" in 26 Pa.C.S. § 202.

11          (2) The addition of 26 Pa.C.S. § 208.

12       Section 5. This act shall take effect immediately.