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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 800 Session of  
2023

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INTRODUCED BY DUSH, ROTHMAN, HUTCHINSON AND MASTRIANO,  
SEPTEMBER 27, 2023

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REFERRED TO STATE GOVERNMENT, SEPTEMBER 27, 2023

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AN ACT

1 Amending Title 26 (Eminent Domain) of the Pennsylvania  
2 Consolidated Statutes, in just compensation and measure of  
3 damages, providing for compensation for loss of goodwill of  
4 farm operation.

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

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

9 § 717. Compensation for loss of goodwill of farm operation.

10 (a) General rule.--The owner of a farm operation conducted  
11 on the property taken or, if the property is part of a larger  
12 parcel, on the remainder shall be compensated for loss of  
13 goodwill if the owner proves all of the following:

14 (1) The loss is caused by the taking of the property or  
15 the injury to the remainder.

16 (2) Compensation for the loss will not be duplicated in  
17 the compensation otherwise awarded to the owner.

18 (b) Rebuttal of compensation.--The acquiring agency may  
19 rebut the compensation provided in subsection (a) if the

1 acquiring agency proves that the loss could have reasonably been  
2 prevented by a relocation of the farm operation or by taking  
3 steps and adopting procedures that a reasonably prudent person  
4 would take and adopt in preserving the goodwill.

5 (c) Leaseback agreement.--If the acquiring agency and the  
6 owner enter into a leaseback agreement, the following shall  
7 apply:

8 (1) No additional goodwill shall accrue during the  
9 lease.

10 (2) The entering of a leaseback agreement shall not be a  
11 factor in determining goodwill, and any liability for  
12 goodwill shall be established and paid at the time of  
13 acquisition of the property by eminent domain or subsequent  
14 to notice that the property may be taken by eminent domain.

15 (d) Use of State tax returns.--

16 (1) If the owner of a farm operation and the acquiring  
17 agency do not agree on the value of goodwill, the owner shall  
18 make available to the board of viewers or court, and the  
19 board of viewers or court shall, upon terms and conditions  
20 that will preserve confidentiality, make available to the  
21 acquiring agency the State tax returns of the farm operation.  
22 The acquiring agency shall review the State tax returns  
23 solely for the purpose of determining the amount of  
24 compensation under this section.

25 (2) Nothing in this section shall be construed to affect  
26 any right a party may otherwise have to discovery or to  
27 require the production of documents, papers, books and  
28 accounts.

29 (e) Definition.--As used in this section, the term  
30 "goodwill" means the benefits that accrue to a farm operation as

1 a result of its location, cultural heritage value to the  
2 community, reputation for dependability, skill or quality and  
3 any other circumstance resulting in probable retention of old or  
4 acquisition of new patronage.

5 Section 2. This act shall apply retroactively to a  
6 declaration of taking filed on or after January 1, 2022.

7 Section 3. This act shall take effect immediately.