

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1773 Session of 2017

INTRODUCED BY GABLER, JAMES, NEILSON, WARD, WHEELAND, ZIMMERMAN, RYAN AND SANKEY, SEPTEMBER 12, 2017

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, DECEMBER 12, 2017

AN ACT

1 ~~Amending Title 26 (Eminent Domain) of the Pennsylvania~~ <--
2 ~~Consolidated Statutes, in limitations on use of eminent~~
3 ~~domain, prohibiting landlocked property under certain~~
4 ~~circumstances; and repealing the General Road Law. REPEALING~~ <--
5 IN PART THE ACT OF JUNE 13, 1836 (P.L.551, NO.169), ENTITLED
6 "AN ACT RELATING TO ROADS, HIGHWAYS AND BRIDGES."

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 ~~Section 1. Title 26 of the Pennsylvania Consolidated~~ <--
10 ~~Statutes is amended by adding a section to read:~~

11 ~~§ 208. Landlocked property.~~

12 ~~(a) Prohibition. Except as set forth in subsection (b), in~~
13 ~~the case of a partial taking of the property of a condemnee, a~~
14 ~~condemnor may not render the remaining parcel inaccessible to~~
15 ~~the condemnee by creating a landlocked property with no ingress~~
16 ~~or egress to or from a public road or highway.~~

17 ~~(b) Nonapplicability. Subsection (a) shall not apply if the~~
18 ~~condemnee consents to creation of the landlocked property.~~

19 ~~Section 2. The act of June 13, 1836 (P.L.551, No.169),~~

1 ~~referred to as the General Road Law, is repealed.~~

2 ~~Section 3. This act shall take effect in 60 days.~~

3 SECTION 1. SECTIONS 11, 12, 13, 14, 16 AND 17 OF THE ACT OF <--
4 JUNE 13, 1836 (P.L.551, NO.169), REFERRED TO AS THE GENERAL ROAD
5 LAW, ARE REPEALED:

6 [SECTION 11. PROCEEDINGS TO OPEN PRIVATE ROADS

7 THE SEVERAL COURTS OF QUARTER SESSIONS SHALL, IN OPEN COURT

8 AS AFORESAID, UPON THE PETITION OF ONE OR MORE PERSONS,

9 ASSOCIATIONS, PARTNERSHIPS, STOCK COMPANIES, OR CORPORATIONS,

10 FOR A ROAD FROM THEIR RESPECTIVE LANDS OR LEASEHOLDS TO A

11 HIGHWAY OR PLACE OF NECESSARY PUBLIC RESORT, OR TO ANY PRIVATE

12 WAY LEADING TO A HIGHWAY, OR UPON THE PETITION OF THE CHIEF

13 EXECUTIVE OFFICER OF ANY EXECUTIVE OR ADMINISTRATIVE DEPARTMENT

14 OF THE STATE GOVERNMENT FOR A ROAD FROM ANY PUBLIC HIGHWAY

15 ACROSS ANY LANDS OF ANY PERSON, ASSOCIATION, OR CORPORATION TO

16 THE BOUNDARY LINE OF ANY LANDS OWNED, CONTROLLED, OR

17 ADMINISTERED BY THE COMMONWEALTH, DIRECT A VIEW TO BE HAD OF THE

18 PLACE WHERE SUCH ROAD IS REQUESTED, AND A REPORT THEREOF TO BE

19 MADE, IN THE SAME MANNER AS IS DIRECTED BY THE SAID ACT OF

20 THIRTEENTH JUNE, ONE THOUSAND EIGHT HUNDRED AND THIRTY-SIX.

21 SECTION 12. PROCEEDINGS ON REPORT OF VIEWERS

22 IF IT SHALL APPEAR BY THE REPORT OF VIEWERS TO THE COURT

23 DIRECTING THE VIEW, THAT SUCH ROAD IS NECESSARY, THE SAID COURT

24 SHALL DIRECT WHAT BREADTH THE ROAD SO REPORTED SHALL BE OPENED,

25 AND THE PROCEEDINGS IN SUCH CASES SHALL BE ENTERED ON RECORD, AS

26 BEFORE DIRECTED, AND THENCEFORTH SUCH ROAD SHALL BE DEEMED AND

27 TAKEN TO BE A LAWFUL PRIVATE ROAD.

28 SECTION 13. GATES

29 IN ALL CASES OF A PRIVATE ROAD, IT SHALL BE LAWFUL FOR THE

30 OWNERS OF THE LAND OVER WHICH THE SAME MAY BE LAID OUT OR

1 AUTHORIZED, TO APPLY TO THE COURT AFORESAID FOR LEAVE TO HANG
2 AND MAINTAIN AT THEIR OWN EXPENSE, SWINGING GATES ACROSS THE
3 ROAD, AND THEREUPON THE COURT SHALL DIRECT THE VIEWERS APPOINTED
4 TO VIEW SUCH ROAD, OR IN CASE THE ROAD HAS BEEN ALREADY LAID
5 OUT, MAY APPOINT OTHER VIEWERS IN MANNER AFORESAID, TO INQUIRE
6 AND REPORT WHETHER THE SAME MAY BE DONE WITHOUT MUCH
7 INCONVENIENCE TO THE PERSONS USING SUCH ROAD.

8 SECTION 14. WHEN GATES SHALL BE ERECTED

9 IF IT SHALL APPEAR TO THE COURT THAT A GATE OR GATES MAY BE
10 HUNG AS AFORESAID, ACCORDING TO THE PRAYER OF THE PARTY, WITHOUT
11 MUCH INCONVENIENCE TO THE PERSON OR PERSONS USING SUCH ROAD,
12 THEY SHALL DECREE ACCORDINGLY, AND IN SUCH DECREE THEY SHALL
13 ORDER AND DIRECT THAT SUCH GATE OR GATES BE MADE AND KEPT IN
14 REPAIR, AND MADE EASY FOR PASSING, BY THE RESPECTIVE OWNERS OF
15 SAID LAND.

16 SECTION 16. DAMAGES

17 THE DAMAGES SUSTAINED BY THE OWNERS OF THE LAND THROUGH WHICH
18 ANY PRIVATE ROAD MAY PASS SHALL BE ESTIMATED IN THE MANNER
19 PROVIDED IN THE CASE OF A PUBLIC ROAD, AND SHALL BE PAID BY THE
20 PERSONS, ASSOCIATIONS, PARTNERSHIP, STOCK COMPANIES,
21 CORPORATIONS, OR EXECUTIVE OR ADMINISTRATIVE DEPARTMENT OF THE
22 COMMONWEALTH, AT WHOSE REQUEST THE ROAD WAS GRANTED OR LAID OUT:
23 PROVIDED, THAT NO SUCH ROAD SHALL BE OPENED BEFORE THE DAMAGES
24 SHALL BE FULLY PAID.

25 SECTION 17. USE BY OTHERS THAN PETITIONERS

26 WHENEVER ANY PERSON SHALL BE DESIROUS TO MAKE USE OF A PRIVATE
27 ROAD LAID OUT ON THE PETITION AND AT THE EXPENSE OF OTHERS, SUCH
28 PERSON MAY APPLY BY PETITION TO THE COURT OF QUARTER SESSIONS OF
29 THE RESPECTIVE COUNTY, TO BE ADMITTED TO PARTICIPATE IN THE
30 PRIVILEGE OF THE SAID ROAD, AND THEREUPON SUCH COURT SHALL HAVE

1 POWER TO DETERMINE WHAT SUM HE SHALL CONTRIBUTE TO THE PERSONS
2 AT WHOSE EXPENSE THE SAID ROAD WAS LAID OUT, AND ALSO WHAT
3 FURTHER SUM HE SHALL PAY TO THE OWNERS OF THE SOIL OVER WHICH
4 THE SAID ROAD WAS MADE, AND UPON THE PAYMENT THEREOF, SUCH
5 PERSON SHALL BE ENTITLED TO EQUAL RIGHTS AND PRIVILEGES, AND BE
6 SUBJECT TO LIKE DUTIES AND LIABILITIES WITH THE ORIGINAL
7 APPLICANTS FOR SAID ROAD.]

8 SECTION 2. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.