

## Legislation Details (With Text)

**File #:** 150642-A      **Version:** 2      **Name:**

**Type:** Bill      **Status:** ENACTED

**File created:** 9/10/2015      **In control:** Committee on Transportation and Public Utilities

**On agenda:**      **Final action:** 12/10/2015

**Title:** Amending Chapter 13-800 of The Philadelphia Code, entitled "Damages From Breakage," by providing for certain duties and responsibilities of the Water Department in the event of water main breaks and providing for certain rights and protections to property-owners affected by such water main breaks, all under certain terms and conditions.

**Sponsors:** Councilmember Blackwell, Councilmember Johnson

**Indexes:** WATER DEPARTMENT

**Code sections:** 13-800 - Damages from Breakage

**Attachments:** 1. CertifiedCopy150642-A02.pdf

Date	Ver.	Action By	Action	Result	Tally
12/23/2015	2	MAYOR	SIGNED		
12/10/2015	2	CITY COUNCIL	READ AND PASSED	Pass	15:0
12/3/2015	2	CITY COUNCIL	ORDERED PLACED ON THIS DAY'S FIRST READING CALENDAR		
12/3/2015	2	CITY COUNCIL	SUSPEND THE RULES OF THE COUNCIL	Pass	
12/3/2015	1	CITY COUNCIL	READ AND ORDERED PLACED ON NEXT WEEK'S SECOND READING CALENDAR		
12/3/2015	2	CITY COUNCIL	AMENDED		
12/3/2015	2	CITY COUNCIL	ORDERED PLACED ON FINAL PASSAGE CALENDAR FOR NEXT MEETING.		
11/30/2015	1	Committee on Transportation and Public Utilities	HEARING NOTICES SENT		
11/30/2015	1	Committee on Transportation and Public Utilities	HEARING HELD		
11/30/2015	1	Committee on Transportation and Public Utilities	REPORTED FAVORABLY, RULE SUSPENSION REQUESTED		
10/28/2015	0	Committee on Transportation and Public Utilities	HEARING NOTICES SENT		
10/28/2015	0	Committee on Transportation and Public Utilities	HEARING HELD		
10/28/2015	0	Committee on Transportation and Public Utilities	AMENDED		
10/28/2015	1	Committee on Transportation and Public Utilities	RECESSED		
9/10/2015	0	CITY COUNCIL	Introduced and Referred	Pass	

Amending Chapter 13-800 of The Philadelphia Code, entitled "Damages From Breakage," by providing for certain duties and responsibilities of the Water Department in the event of water main breaks and providing for

certain rights and protections to property-owners affected by such water main breaks, all under certain terms and conditions.

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Chapter 13-800 of The Philadelphia Code, entitled “Damages from Breakage,” is hereby amended to read as follows:

CHAPTER 13-800. DAMAGES FROM BREAKAGE.

§ 13-801. Definitions.

In this Section, the following definitions apply:

- (1) *Water and Sewer System.* Water mains and sewers and appurtenances thereof which are owned and maintained by the City of Philadelphia.
- (2) *Breakage.* Any failure, leakage, breakage, collapse or blockage occurring in the *water and sewer* system.
- (3) *Natural disaster.* An overwhelming, unpreventable event caused by forces of nature, such as an earthquake, flood or tornado. For purposes of this chapter, exceptionally hot or cold weather shall not be considered a natural disaster.

[(3)](4) *Property Damages.* The market value of real and personal property at the time of loss or destruction or the loss in market value of real and personal property at the time of damage. Personal injuries, consequential damages, loss of business and loss of property are not included.

§ 13-802. Water and Sewer System Property Damages.

(1) The [Water Department] *Law Department or, by delegation, Risk Management* is authorized to pay property damages resulting from any breakage in the water or sewer system *not caused by a natural disaster, the claimant or a third-party.* Any contractors engaged by the City shall not be considered a third-party for purposes of this Chapter.

§ 13-803. Administrative Procedure.

(1) Any person whose property has been damaged through a [defect] *breakage* in the water or sewer system may file a claim for damages with the [Water Department] *City*. The claim shall be made under oath setting forth [the]:

- (a) *the* location of the breakage in the water or sewer system;
- (b) the name and address of the claimant *and, if different, the address of the damaged property;*
- (c) an inventory of any personal property for which claim for damages is made, setting forth the market value of each item at the time it was destroyed and the market value of each item prior to being damaged

together with its market value in the damaged condition;

(d) the location and description of any damage to real estate for which claim for damages is made, setting forth the market value of the property at the time it was damaged; the market value in its damaged condition; and the estimated cost of returning the property to its former state of repair;

(e) a description of events which resulted in damage to the property; and

(f) such other information required by the [Department] City to aid in investigating the claim.

(2) The [Water Department] Law Department shall examine the claim and may negotiate and make settlement in an amount [not exceeding \$2,000] *necessary to fairly compensate affected property-owners.*

(3) The [Water Commissioner] Law Department [may], in [his] *its* discretion, either *may* appraise the claim and enter an award in favor of the claimant without a hearing or [he] may order a [departmental] hearing to adjudicate the claim. *The Water and Law Departments are authorized to promulgate joint regulations to govern such hearings.*

(4) If a hearing is ordered, it shall be held by the Water Commissioner or an examiner selected by him. The hearing shall be informal and technical rules of evidence shall not be applied. Testimony shall be under oath. The claimant may be represented by counsel at the hearing. Notes of testimony may be taken if desired by the examiner. Claimant may demand that notes of testimony be taken at the hearing if he pays the cost of taking and transcribing the notes. After hearing, an award may be entered by the Water Commissioner.

(5) *The Water Department is authorized to promulgate regulations on the following topics concerning water mains and water main breakage:*

(a) *Treating every water main breakage as an emergency requiring twenty-four-hour a day, seven-day-a-week response;*

(b) *Managing a program to inspect water distribution mains throughout the city based upon reducing the number of water main breaks, particularly for pipes over 100 years old and for sections of the city with older water mains;*

(c) *Coordinating with other utilities and any other entities or City-related agencies, to accomplish the orderly restoration of utility services to affected properties and to address property-owner claims;*

(d) *Performing safety inspections as needed of all properties affected by the water main break, including an assessment of whether the properties have suffered structural damage or might be at risk of collapse, as a result of the water main break;*

(e) *Refraining from requiring affected property-owners to use their homeowners' insurance to make repairs caused by the water main break, in accordance with applicable law;*

(f) *Establishing a schedule for the prompt and orderly processing of property-owner claims and for keeping property-owners informed about their claims; and*

(g) *Providing appropriate accommodations with responsible establishments that provide clean, safe and habitable lodging to all property-owners that the City, through the Department of Licenses and Inspection*

*in consultation with Risk Management, has determined require relocation solely as the result of damage caused by water main breakage.*

\* \* \*

SECTION 2. Effective Date. This Ordinance shall take effect immediately.

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**Explanation:**

[Brackets] indicate matter deleted.

*Italics* indicate new matter added.