

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1868 Session of
1995

INTRODUCED BY BUNT, BARLEY, DENT, ARMSTRONG, TRUE, KREBS,
J. TAYLOR, STRITTMATTER, SCHULER, BROWNE, ZUG, GODSHALL, LEH,
ZIMMERMAN, ALLEN, SEMMEL, ARGALL AND MILLER, JUNE 26, 1995

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, MAY 13, 1996

AN ACT

1 Amending the act of ~~June~~ JANUARY 13, 1966 (1965 P.L.1292, <—
2 No.515), entitled "An act enabling certain counties of the
3 Commonwealth to covenant with land owners for preservation of
4 land in farm, forest, water supply, or open space uses,"
5 providing for use of land by wireless or cellular
6 telecommunications provider.

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

9 Section 1. Section 6 of the act of ~~June~~ JANUARY 13, 1966 <—
10 (1965 P.L.1292, No.515), entitled "An act enabling certain
11 counties of the Commonwealth to covenant with land owners for
12 preservation of land in farm, forest, water supply, or open
13 space uses," is amended to read:

14 Section 6. Breach of Covenant by Land Owner.--(a) If the
15 land owner, his successors or assigns, while the covenant is in
16 effect, alters the use of the land to any use other than that
17 designated in the covenant, such alteration shall constitute a
18 breach of the covenant and the land owner at the time of said
19 breach, shall pay to the county, as liquidated damages, the

1 difference between the real property taxes paid and the taxes
2 which would have been payable absent the covenant, plus compound
3 interest at the rate of five percent per year from the date of
4 entering the covenant to the date of its breach or from a date
5 five years prior to the date of its breach whichever period is
6 shorter. Such liquidated damages shall be a lien upon the
7 property collectible in the manner provided by law for the
8 collection of unpaid real property taxes. The acquisition by
9 lease, purchase or eminent domain, and use of rights of way or
10 underground storage rights in such land by a public utility or
11 other body entitled to exercise the power of eminent domain or
12 by a wireless or cellular telecommunications provider who
13 satisfies the conditions under subsection (b) shall not
14 constitute an alteration of use or a breach of covenant.

15 (b) Use of the land, covered by the covenant, by a wireless
16 or cellular telecommunications provider shall not constitute an
17 alteration of use or breach of the covenant when the following
18 conditions are satisfied:

19 (1) The land so used does not exceed one-half of one acre.

20 (2) The land does not have more than one communication
21 tower.

22 (3) The land is accessible.

23 (4) The land is not sold or subdivided. A lease of land
24 shall not be considered a subdivision under this clause.

25 (c) Use of land under this subsection for wireless services
26 other than wireless telecommunications may only qualify if such
27 wireless services share a tower with a wireless
28 telecommunications provider as provided for in subsection (b).

29 (d) A landowner may lease a tract of land restricted by an
30 open space covenant under the provisions of this act for

1 wireless or cellular telecommunications purposes without
2 subjecting the entire tract to liquidated damages, provided that
3 the conditions of subsection (b) are satisfied. Liquidated
4 damages shall be imposed upon the tract of land leased by the
5 landowner for wireless or cellular telecommunications purposes
6 and the fair market value of that tract of land shall be
7 adjusted accordingly.

8 (E) THE WIRELESS OR CELLULAR COMMUNICATIONS PROVIDER SHALL <—
9 BE SOLELY RESPONSIBLE FOR OBTAINING REQUIRED PERMITS IN
10 CONNECTION WITH ANY CONSTRUCTION ON A TRACT OF LAND WHICH IT
11 LEASES PURSUANT TO THE PROVISIONS OF THIS SECTION FOR
12 TELECOMMUNICATIONS PURPOSES. NO PERMIT REQUESTED PURSUANT TO
13 THIS SECTION SHALL BE DENIED BY A MUNICIPALITY FOR ANY REASON
14 OTHER THAN FAILURE TO STRICTLY COMPLY WITH PERMIT APPLICATION
15 PROCEDURES.

16 Section 2. This act shall take effect in 60 days.