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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 183      Session of  
2005

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INTRODUCED BY ROSS, HERMAN, BALDWIN, BARRAR, BUNT, CALTAGIRONE,  
CAPPELLI, CAWLEY, CLYMER, CORRIGAN, CRAHALLA, FICHTER,  
FRANKEL, FREEMAN, GEIST, GERGELY, GINGRICH, GODSHALL, GRELL,  
GRUCELA, HENNESSEY, W. KELLER, MUNDY, MUSTIO, NAILOR,  
O'NEILL, PETRI, RUBLEY, SAYLOR, SCAVELLO, SCHRODER, THOMAS,  
TIGUE, WALKO, WATSON, YOUNGBLOOD, BOYD, GOODMAN, CURRY,  
BROWNE, MELIO, DENLINGER AND WASHINGTON, FEBRUARY 1, 2005

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SENATOR ERICKSON, LOCAL GOVERNMENT, IN SENATE, AS AMENDED,  
JUNE 27, 2006

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AN ACT

1 Amending the act of January 19, 1968 (1967 P.L.992, No.442),  
2 entitled, as amended, "An act authorizing the Commonwealth of  
3 Pennsylvania and the local government units thereof to  
4 preserve, acquire or hold land for open space uses," further  
5 providing for local taxing options; and providing for land  
6 trusts.

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

9 Section 1. Section 7.1(a) of the act of January 19, 1968  
10 (1967 P.L.992, No.442), entitled "An act authorizing the  
11 Commonwealth of Pennsylvania and the local government units  
12 thereof to preserve, acquire or hold land for open space uses,"  
13 added December 18, 1996 (P.L.994, No.153), is amended to read:

14 Section 7.1. Local Taxing Options.--(a) A local government  
15 unit, excluding counties and county authorities, may by  
16 ordinance impose, in addition to the statutory rate limits on

1 real estate taxes set forth in the municipal code of that local  
2 government unit, a tax on real property not exceeding the  
3 millage authorized by referendum under this subsection. In the  
4 alternative, a local government unit, excluding counties and  
5 county authorities, may by ordinance impose, in addition to the  
6 earned income tax rate limit set forth in the act of December  
7 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling  
8 Act," a tax on the earned income of the residents of that local  
9 government unit not exceeding the rate authorized by referendum  
10 under this subsection. Revenue from the levy shall be used to  
11 retire the indebtedness incurred in purchasing interests in real  
12 property or in making additional acquisitions of real property  
13 for the purpose of securing an open space benefit or benefits  
14 under the provisions of this act or the act of June 30, 1981  
15 (P.L.128, No.43), known as the "Agricultural Area Security Law."  
16 Revenue from the levy may also be used for expenses related <—  
17 TRANSACTIONAL FEES THAT ARE INCIDENTAL to acquisitions made in <—  
18 accordance with this act, including, but not limited to, costs  
19 of appraisals, legal services, title searches, document  
20 preparation, title insurance, closing fees and survey costs. The  
21 local taxing option authorized by this subsection shall not be  
22 exercised unless the governing body of the local government unit  
23 shall by ordinance first provide for a referendum on the  
24 question of the imposition at a specific rate of the additional  
25 tax to be imposed and a majority of those voting on the  
26 referendum question vote in favor of the imposition of the tax.  
27 The ordinance of the governing board of the local government  
28 unit providing for a referendum on the question shall be filed  
29 with the county board of elections. The referendum shall be  
30 governed by the provisions of the act of June 3, 1937 (P.L.1333,

1 No.320), known as the "Pennsylvania Election Code." The election  
2 official shall cause the question to be submitted to the  
3 electors of the local government unit at the next primary,  
4 general or municipal election occurring not less than the  
5 thirteenth Tuesday following the filing of the ordinance with  
6 the county board of elections. At such election, the question  
7 shall be submitted to the voters in the same manner as other  
8 questions are submitted under the provisions of the  
9 "Pennsylvania Election Code." The question to be placed upon the  
10 ballot shall be framed in the following form:

11           Do you favor the imposition of a (describe tax in millage  
12           or rate) by (local government unit) to be used to  
13           (purpose)?

14       \* \* \*

15       Section 2. The act is amended by adding a section to read:

16       Section 11.1. Land Trusts.--(a) If the governing body of a  
17 local government unit deems it to be for the public benefit of  
18 the local government unit, it may:

19       (1) appropriate money to a land trust or a local land trust  
20 for the acquisition or conservation and preservation of  
21 interests in real property for the purpose of achieving open  
22 space benefits; and, PROVIDED THAT AN APPROPRIATION FOR THE <—  
23 ACQUISITION OR CONSERVATION AND PRESERVATION OF INTERESTS IN  
24 REAL PROPERTY FOR THE PURPOSE OF ACHIEVING OPEN SPACE BENEFITS  
25 WITHIN A LOCAL GOVERNMENT UNIT OTHER THAN THE ONE THAT MADE THE  
26 APPROPRIATION SHALL BE MADE ONLY PURSUANT TO AN  
27 INTERGOVERNMENTAL COOPERATION AGREEMENT BETWEEN THE LOCAL  
28 GOVERNMENT UNIT WITHIN WHICH THE OPEN SPACE BENEFITS WILL BE  
29 ACHIEVED AND THE LOCAL GOVERNMENT UNIT MAKING THE APPROPRIATION;  
30 AND

(2) transfer open space property interests to a land trust  
or local land trust and elect to accept any nominal  
consideration for the transfer it deems appropriate. NEITHER A  
LAND TRUST NOR A LOCAL LAND TRUST SHALL ACQUIRE AN INTEREST IN  
REAL PROPERTY THROUGH EMINENT DOMAIN.

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~~(b) A local government unit may create a local land trust.~~

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(B) NOTWITHSTANDING THE PROVISIONS OF 15 PA.C.S. § 5302

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(RELATING TO NUMBER AND QUALIFICATIONS OF INCORPORATORS), A

LOCAL GOVERNMENT UNIT MAY INCORPORATE A LOCAL LAND TRUST AS A

DOMESTIC NONPROFIT CORPORATION. Whenever the governing body of a

local government unit desires to create a local land trust under

this section, it shall adopt an ordinance signifying its

intention to do so. A LOCAL LAND TRUST SHALL FUNCTION AS A

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NONPROFIT CORPORATION UNDER 15 PA.C.S. PT. II SUBPT. C ART. B

(RELATING TO DOMESTIC NONPROFIT CORPORATIONS GENERALLY), EXCEPT

THAT THE FOLLOWING SHALL APPLY:

(1) THE BUSINESS AND AFFAIRS OF A LOCAL LAND TRUST SHALL BE

MANAGED UNDER THE DIRECTION OF A BOARD OF DIRECTORS WHO SHALL BE

CHOSEN FROM THE ELECTORS OF THE LOCAL GOVERNMENT UNIT THAT

INCORPORATED THE LOCAL LAND TRUST AND MEMBERS OF THE BOARD OF

DIRECTORS OF A LOCAL LAND TRUST SHALL SERVE AT THE PLEASURE OF

THE GOVERNING BODY OF THE INCORPORATING LOCAL GOVERNMENT UNIT.

(2) A LOCAL LAND TRUST SHALL FILE AN ANNUAL REPORT WITH THE

GOVERNING BODY OF THE INCORPORATING LOCAL GOVERNMENT UNIT, WHICH

REPORT SHALL MAKE PROVISIONS FOR THE ACCOUNTING OF REVENUES AND

EXPENSES. THE LOCAL LAND TRUST SHALL HAVE ITS BOOKS, ACCOUNTS

AND RECORDS AUDITED ANNUALLY IN ACCORDANCE WITH GENERALLY

ACCEPTED AUDITING STANDARDS BY AN INDEPENDENT AUDITOR WHO SHALL

BE A CERTIFIED PUBLIC ACCOUNTANT, AND A COPY OF THE AUDIT REPORT

SHALL BE ATTACHED TO AND BE MADE A PART OF THE ANNUAL REPORT. A

1 CONCISE FINANCIAL STATEMENT SHALL BE PUBLISHED ANNUALLY IN A  
2 NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY WHERE THE LOCAL  
3 LAND TRUST IS LOCATED.

4 (3) A LOCAL LAND TRUST SHALL BE SUBJECT TO 65 PA.C.S. CH. 7  
5 (RELATING TO OPEN MEETINGS).

6 (c) Money appropriated to a land trust or a local land trust  
7 under this section may be used for related expenses.

8 (d) As used in this section:

9 (1) "Land trust." A nonprofit organization that is tax  
10 exempt under section 501(c)(3) of the Internal Revenue Code of  
11 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)), is registered  
12 with the Pennsylvania Commission on Charitable Organizations,  
13 and which has among its primary purposes the acquisition or  
14 conservation and preservation of interests in real property for  
15 the purpose of achieving open space benefits.

16 (2) "Local government unit." A local government unit as  
17 defined in section 2(5). The term does not include a county  
18 authority.

19 (3) "Local land trust." A land trust incorporated by a  
20 local government unit. ~~as a nonprofit corporation under 15~~ <—  
21 ~~Pa.C.S. Pt. II Subpt. C Art. B (relating to domestic nonprofit~~  
22 ~~corporations generally).~~

23 (4) "Related expenses." Incidental expenses incurred by  
24 ~~land trust in the acquisition or conservation and preservation A~~ <—  
25 LAND TRUST AS TRANSACTIONAL FEES IN THE ACQUISITION of interests  
26 in real property for the purpose of achieving open space  
27 benefits, including, but not limited to, costs of appraisals,  
28 legal services, title searches, document preparation, title  
29 insurance, closing fees and survey costs.

30 Section 3. This act shall take effect in 60 days.