

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 117 Session of
2009

INTRODUCED BY HARPER, BOYD, FLECK, GODSHALL, MCILVAINE SMITH,
MILLARD, MILLER, O'NEILL, PETRI, PYLE, QUINN, SIPTROTH,
SWANGER, WATSON, CREIGHTON, MURT AND GEIST, JANUARY 30, 2009

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
SEPTEMBER 30, 2009

AN ACT

1 Authorizing the Department of Transportation to sell land under
2 certain conditions; and making a related repeal.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Sale of
7 Transportation Lands Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Department." The Department of Transportation of the
13 Commonwealth.

14 "Fund." The Motor License Fund.

15 "Preservation of open space." Includes the following:

16 (1) Protection and conservation of water resources and
17 watersheds.

1 (2) Protection and conservation of forests and land
2 being used to produce timber crops.

3 (3) Protection and conservation of farmland.

4 (4) Protection of existing or planned park, trail,
5 greenway, recreation or conservation sites.

6 (5) Protection and conservation of natural or scenic
7 resources, including beaches, streams, floodplains, steep
8 slopes and marshes.

9 (6) Protection of scenic areas for public visual
10 enjoyment from public rights-of-way.

11 (7) Preservation of sites of historic, geologic or
12 botanic interest.

13 (8) Promotion of sound, cohesive and efficient land
14 development by preserving open spaces between communities.

15 "Public agency." Includes an authority and a political
16 subdivision.

17 "Secretary." The Secretary of Transportation of the
18 Commonwealth.

19 Section 3. Sale of land.

20 (a) Authorization.--Notwithstanding the act of April 9, 1929
21 (P.L.177, No.175), known as The Administrative Code of 1929, the
22 department, in accordance with appropriations and grants of
23 funds from Federal, State, regional, local or private agencies
24 and subject to subsection (b), in the exercise of its powers and
25 duties, may sell at public sale land acquired by the department
26 if the secretary determines that the land is not needed for
27 present or future transportation purposes.

28 (b) Conditions.--The following apply to a sale under
29 subsection (a):

30 (1) If the land is improved, all of the following

subparagraphs apply:

(i) The land must first be offered at its fair market value as determined by the department to other public agencies which demonstrate a public purpose for the land, including, BUT NOT LIMITED TO, the preservation of open space. ←

(ii) If the land is not transferred to a public agency, all of the following clauses apply:

(A) If the land is occupied by a tenant, the land must be offered to the tenant:

(I) except as set forth in subclause (II), at its fair market value as determined by the department; or

(II) if the tenant is the person from whom the department acquired the land, at the acquisition price, less costs, expenses and reasonable attorney fees incurred by the person as a result of the acquisition of the land by the department.

(B) If the land is not occupied by a tenant and the person from whom the department acquired the land did not receive a replacement housing payment under 26 Pa.C.S. § 903 (relating to replacement housing for homeowners) or under former section 304.3 of the act of June 1, 1945 (P.L.1242, No.428), known as the State Highway Law, the land must first be offered to that person at the acquisition price, less costs, expenses and reasonable attorney fees incurred by the person as a result of the acquisition of the land by the department.

1 (2) If the land is unimproved, all of the following
2 subparagraphs apply:

3 (i) The land must be offered at its fair market
4 value as determined by the department to other public
5 agencies which demonstrate a public purpose for the land,
6 including, BUT NOT LIMITED TO, the preservation of open ←
7 space.

8 (ii) If the land is not transferred to a public
9 agency, the following apply:

10 (A) Except as set forth in clause (B), the land
11 must be offered to the person from whom it was
12 acquired at its acquisition price, less costs,
13 expenses and reasonable attorney fees incurred by the
14 person as a result of the acquisition of the land by
15 the department, IF THE PERSON STILL RETAINS TITLE TO ←
16 LAND ABUTTING THE LAND TO BE SOLD.

17 (B) If the land abutting the land to be sold has
18 been conveyed to another person, the land to be sold
19 must be offered to that person at its fair market
20 value as determined by the department.

21 (3) For an offer under paragraph (1) or (2), all of the
22 following apply:

23 (i) except as set forth in subparagraph (ii), notice
24 must be sent by certified mail;

25 (ii) if notice cannot be effected under subparagraph
26 (i), notice must be effected in the manner required for
27 an in rem proceeding; or

28 (iii) the offeree must have 120 days after receipt
29 of notice to accept the offer in writing.

30 (c) Proceeds.--Proceeds from a sale of land acquired with

1 money from the fund shall be deposited into the fund.

2 Section 9. Repeals.

3 Repeals are as follows:

4 (1) The General Assembly declares that the repeal under
5 paragraph (2) is necessary to effectuate section 3.

6 (2) Section 2003(e)(7) of the act of April 9, 1929
7 (P.L.177, No.175), known as The Administrative Code of 1929,
8 is repealed.

9 Section 10. Effective date.

10 This act shall take effect in 60 days.