

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 3080 Session of  
1994

INTRODUCED BY NAILOR, TRELLO, MERRY, SATHER, MELIO, MASLAND,  
CESSAR, FLEAGLE, FARGO, WAUGH, BARLEY, SANTONI, LEH, TULLI,  
L. I. COHEN, E. Z. TAYLOR, GEIST, GODSHALL, MILLER, LYNCH AND  
MARSICO, SEPTEMBER 28, 1994

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, SEPTEMBER 28, 1994

AN ACT

1 Amending the act of February 1, 1966 (1965 P.L.1656, No.581),  
2 entitled "An act concerning boroughs, and revising, amending  
3 and consolidating the law relating to boroughs," further  
4 providing for the disposal of personal property and for  
5 regulation of contracts.

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

8 Section 1. Section 1201(4) of the act of February 1, 1966  
9 (1965 P.L.1656, No.581), known as The Borough Code, amended  
10 December 14, 1989 (P.L.626, No.73), is amended to read:

11 Section 1201. General Powers.--A borough may:

12 \* \* \*

13 (4) Purchase, acquire by gift, or otherwise, hold, lease,  
14 let and convey, by sale or lease, such real and personal  
15 property as shall be deemed to be to the best interest of the  
16 borough: Provided, That no real estate owned by the borough  
17 shall be sold for a consideration in excess of fifteen hundred  
18 dollars (\$1500), except to the highest bidder after due notice

1 by advertisement for bids or advertisement of a public auction  
2 in one newspaper of general circulation in the borough. Such  
3 advertisement shall be published once not less than ten days  
4 prior to the date fixed for the opening of bids or public  
5 auction, and such date for opening bids or public auction shall  
6 be announced in such advertisement. The acceptance of bids shall  
7 be made only by public announcement at a regular or special  
8 meeting of council or at the public auction. All bids shall be  
9 accepted on the condition that payment of the purchase price in  
10 full shall be made within sixty days of the acceptance of bids.  
11 The borough council shall have the authority to reject all bids  
12 if such bids are deemed to be less than the fair market value of  
13 the real property. In the case of a public auction, the borough  
14 council may establish a minimum bid based on the fair market  
15 value of the real property. Real estate owned by a borough may  
16 be sold at a consideration of fifteen hundred dollars (\$1500) or  
17 less without advertisement or competitive bidding only after  
18 council estimates the value thereof upon receipt of an appraisal  
19 by a qualified real estate appraiser.

20 Except as otherwise hereinafter provided in the case of  
21 personal property of an estimated sale value of less than [two  
22 hundred dollars (\$200)] one thousand dollars (\$1,000), no  
23 borough personal property shall be disposed of, by sale or  
24 otherwise, except upon approval of council, by ordinance or  
25 resolution. In cases where council shall approve a sale of such  
26 property, it shall estimate the sale value of the entire lot to  
27 be disposed of. If council shall estimate the sale value to be  
28 [two hundred dollars (\$200)] one thousand dollars (\$1,000) or  
29 more, the entire lot shall be advertised for sale once, in at  
30 least one newspaper of general circulation in the borough, not

1 less than ten days prior to the date fixed for the opening of  
2 bids or public auction, and such date of opening of bids or  
3 public auction, shall be announced in such advertisement, and  
4 sale of the property so advertised shall be made to the best  
5 responsible bidder. Council shall have authority, by resolution,  
6 to adopt a procedure for the sale of surplus personal property  
7 of an estimated sale value of less than [two hundred dollars  
8 (\$200)] one thousand dollars (\$1,000) and the approval of  
9 council shall not be required for any individual sale that shall  
10 be made in conformity to such procedure.

11 The provisions of this clause shall not be mandatory where  
12 borough property is to be traded in or exchanged for new borough  
13 property.

14 The provisions of this clause requiring advertising for bids  
15 or sale at public auction and sale to the highest bidder shall  
16 not apply where borough real or personal property is to be sold  
17 to a county, city, borough, town, township, institution  
18 district, school district, volunteer fire company, volunteer  
19 ambulance service or volunteer rescue squad located within the  
20 borough, or municipal authority pursuant to the Municipality  
21 Authorities Act of 1945, is to be sold to a non-profit  
22 corporation engaged in community industrial development or where  
23 real property is to be sold to a person for his exclusive use in  
24 an industrial development program or where real property is to  
25 be sold to a non-profit corporation organized as a public  
26 library for its exclusive use as a library, or where real  
27 property is to be sold to a non-profit medical service  
28 corporation as authorized by clause (76) of section 1202 or  
29 where real property is to be sold to a non-profit housing  
30 corporation as authorized by clause (77) of section 1202 or

1 where real property is to be sold to the Commonwealth or to the  
2 Federal Government. When real property is to be sold to a non-  
3 profit corporation organized as a public library for its  
4 exclusive use as a library or to a non-profit medical service  
5 corporation or to a non-profit housing corporation, council may  
6 elect to accept such nominal consideration for such sale as it  
7 shall deem appropriate. Real property sold pursuant to this  
8 clause to a volunteer fire company, volunteer ambulance service  
9 or volunteer rescue squad, non-profit medical service  
10 corporation or to a non-profit housing corporation shall be  
11 subject to the condition that when the property is not used for  
12 the purposes of the company, service, squad or the corporation  
13 the property shall revert to the borough.

14 \* \* \*

15 Section 2. Section 1402(b) of the act, amended February 14,  
16 1990 (P.L.60, No.10), is amended to read:

17 Section 1402. Regulation of Contracts.--\* \* \*

18 (b) (1) The [acceptance] award of bids shall only be made  
19 by public announcement at the meeting at which bids are  
20 received, or at a subsequent meeting, the time and place of  
21 which shall be publicly announced when bids are received. If for  
22 any reason one or both of the above meetings shall not be held,  
23 the same business may be transacted at any subsequent meeting if  
24 at least five days' notice thereof shall be published in the  
25 newspaper aforesaid. At council's request, all bids advertised  
26 for shall be accompanied by cash, money order, a certified or  
27 cashier's good faith check, or a bond with corporate surety in  
28 such amount as council shall determine, and, when requested, no  
29 bid shall be considered unless so accompanied.

30 (2) Notwithstanding clause (1), council may direct that

1 borough staff receive and open bids during normal business hours  
2 and forward the results to council for subsequent award at a  
3 public meeting.

4 \* \* \*

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