

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 983 Session of  
2007

INTRODUCED BY STEIL, FREEMAN, HENNESSEY, HERSHEY, KORTZ, PETRI,  
RUBLEY, SOLOBAY, VEREB, THOMAS, SIPTROTH, CALTAGIRONE AND  
MUNDY, APRIL 2, 2007

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JUNE 24, 2008

## AN ACT

1 Amending the act of January 19, 1967 (~~1968 P.L.992, No.442~~) 1968 <—  
2 (1967 P.L.992, No.442), entitled, AS AMENDED, "An act <—  
3 authorizing the Commonwealth of Pennsylvania and the local  
4 government units thereof to preserve, acquire or hold land  
5 for open space uses," further providing for acquisition of  
6 interests in real property, for local taxing options and for  
7 exercise of eminent domain.

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

10 Section 1. Section 5(c) of the act of January 19, 1967 <—  
11 (~~1968, P.L.922, No.442~~) 1968 (1967 P.L.992, NO.442), entitled, <—  
12 AS AMENDED, "An act authorizing the Commonwealth of Pennsylvania  
13 and the local government units thereof to preserve, acquire or  
14 hold land for open space uses," amended December 18, 1996  
15 (P.L.994, No.153), is amended to read:

16 Section 5. Acquisition of Interests in Real Property.--\* \* \*

17 (c) (1) A local government unit may acquire any interest in  
18 real property situate within its boundaries by purchase,  
19 contract, [condemnation, gift, devise or otherwise] gift or

1 devise, for any of the purposes set forth in clauses [(1)  
2 through (8) of subsection (a) of this section, and may acquire  
3 any interest in real property situate within its boundaries by  
4 purchase, contract, gift or devise, for any of the purposes set  
5 forth in clause (1) of subsection (b) of this section, including  
6 limiting the use of real property to achieve open space benefits  
7 by reselling real property acquired in fee simple, subject to  
8 restrictive covenants or easements limiting the use thereof for  
9 the purposes set forth in clauses (1) through (7) of subsection  
10 (a) and clause (1) of subsection (b) of this section.] (1)  
11 through (7) of subsection (a) and clause (1) of subsection (b),  
12 or may limit the use of real property to achieve open space  
13 benefits by reselling real property acquired in fee simple,  
14 subject to restrictive covenants or easements limiting the use  
15 thereof for those purposes.

16 (1.1) A county or county authority may also acquire any  
17 interest in real property situate within its boundaries by  
18 condemnation for any of the purposes set forth in clauses (1)  
19 through (8) of subsection (a) in accordance with section 8 of  
20 this act.

21 (2) During the time that real property or any interest in  
22 real property acquired by a local government unit for open space  
23 purposes in accordance with this act is held by the local  
24 government unit, the real property shall be ineligible for the  
25 purchase of agricultural conservation easements authorized in  
26 the act of June 30, 1981 (P.L.128, No.43), known as the  
27 "Agricultural Area Security Law."

28 Section 2. Sections 7 and ~~7.1~~ 7.1(B) of the act, amended <—  
29 February 2, 2006 (P.L.15, No.4), are amended to read:

30 Section 7. Property Acquired in Fee Simple.--If the owner of

1 the interests in real property to be acquired pursuant to the  
2 provisions of this act prefers to have the Commonwealth or the  
3 local government unit acquire the property in fee simple, the  
4 Commonwealth or the local government unit shall be required to  
5 acquire the property in fee simple. All real property acquired  
6 in fee simple by the Commonwealth, through either the Department  
7 of Conservation and Natural Resources or the Department of  
8 Agriculture under the provisions of this act, shall be offered  
9 for resale publicly in the manner provided by law within two  
10 years of the date of acquisition, subject to restrictive  
11 covenants or easements limiting the land to such open space uses  
12 as may be specified by the designating department or agency in  
13 accordance with section 6 hereof, and consistent with the  
14 resource, recreation, or land use plan established in accordance  
15 with section [4] 3 hereof. [In the case of the Commonwealth,  
16 such] Such resales may be made without specific authority of the  
17 General Assembly and shall be through the Department of General  
18 Services at public sale in the manner provided by law.

19 Section 7.1. Local Taxing Options.--\* \* \*

20 (b) (1) Any of the following categories of real property  
21 may be exempted from further millage increases:

22 (i) Real property in which the open space property interests  
23 have been acquired by a local government unit in accordance with  
24 this act.

25 (ii) Real property that is subject to an easement acquired  
26 in accordance with the act of June 30, 1981 (P.L.128, No.43),  
27 known as the "Agricultural Area Security Law."

28 (iii) Real property from which TDRs have been transferred  
29 and retired by a local government unit without their development  
30 potential having occurred on other lands.

1       (2) The exemption from further millage increases authorized  
2 by clause (1) shall become effective only if the [governing body  
3 of each taxing district that imposes a tax on the real property  
4 approves] the respective governing bodies of the county,  
5 municipal corporation and school district approve the exemption  
6 either by ordinance in the case of a county or municipal  
7 corporation or by resolution in the case of a school  
8 district[.], and only as long as each ordinance or resolution,  
9 as applicable, remains in effect or is not repealed. The  
10 ordinance or resolution shall state whether the millage freeze  
11 is only to be applied to the general real estate millage or is  
12 also to be applied to any other millages imposed by the taxing  
13 district. At a minimum the millage freeze shall apply to the  
14 taxing districts' general real estate millage.

15       (3) The exemption from further millage increases for real  
16 property as provided for in this subsection shall be authorized  
17 only for real property qualifying for such exemption under the  
18 provisions of section 2(b)(1) of Article VIII of the  
19 Constitution of Pennsylvania.

20       (4) If the [governing body of each taxing district so  
21 resolves] respective governing bodies of the county, municipal  
22 corporation and school district so resolve, the millage freeze  
23 authorized herein shall apply to all eligible real property,  
24 whether the real property met the criteria of this subsection  
25 prior to or subsequent to the date of the ordinances and  
26 resolution imposing the millage freeze. For prior acquisitions,  
27 the date on which the millage rate shall be frozen is the date  
28 that the last of the required ordinances or resolution becomes  
29 effective. For subsequent acquisitions, the date on which the  
30 millage rate shall be frozen is the date the local government

1 unit completes the acquisition. The governing body of each  
2 taxing district shall give prompt notice to the appropriate tax  
3 collection agent of the exact amount of the millage, the date it  
4 was frozen and each parcel to which the freeze applies.

5 (4.1) The millage freeze shall remain in effect if the  
6 property is sold as long as the property continues to meet the  
7 requirements of this subsection.

8 (5) The exemptions granted under this act shall not be  
9 considered by the State Tax Equalization Board in deriving the  
10 market value of school district real property so as to reduce  
11 the subsidy to that school district or to increase the subsidy  
12 to any other school district.

13 ~~(6) Land currently enrolled in programs pursuant to the act~~ <—  
14 ~~of December 19, 1974 (P.L.973, No.319), known as the~~  
15 ~~"Pennsylvania Farmland and Forest Land Assessment Act of 1974,"~~  
16 ~~shall not be eligible for the millage freeze. Land removed from~~  
17 ~~programs under this act shall be eligible for the tax freeze~~  
18 ~~upon their removal, provided that the governing bodies of the~~  
19 ~~county, municipal corporation and school district approve the~~  
20 ~~tax freeze exemption.~~

21 Section 3. Section 8 of the act, amended December 18, 1996  
22 (P.L.944, No.153), is amended to read:

23 Section 8. Exercise of Eminent Domain.--(a) Use of  
24 condemnation or the power of eminent domain to acquire interests  
25 in real property for the purposes of this act shall be exercised  
26 in accordance with the provisions of the Eminent Domain Code of  
27 the Commonwealth.

28 (b) Notwithstanding the provisions of subsection (a) [or  
29 section 5(c)], local government units other than counties or  
30 county authorities may not exercise the power of eminent domain

1 in carrying out the provisions of this act.

2 Section 4. This act shall take effect in 60 days.