

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 177 Session of 2009

INTRODUCED BY GREENLEAF, ALLOWAY, ERICKSON, BROWNE, WOZNIAK,  
O'PAKE AND WONDERLING, FEBRUARY 2, 2009

REFERRED TO LOCAL GOVERNMENT, FEBRUARY 2, 2009

AN ACT

1 Authorizing the establishment of land bank programs and  
2 affordable housing programs with the approval of the  
3 electorate; providing for funding by proceeds from tax on the  
4 transfer of real property; and specifying the purposes of  
5 such programs.

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

9 Section 1. Short title.

10 This act shall be known and may be cited as the Municipal  
11 Land Bank and Affordable Housing Act.

12 Section 2. Establishment of land bank programs and affordable  
13 housing programs.

14 The governing body of a municipality may, by ordinance, or  
15 the electors of a municipality may, by petition, cause to be  
16 submitted to the qualified voters of the municipality the  
17 question of whether the municipality should establish a land  
18 bank program or an affordable housing program, or both, and  
19 dedicate all or a portion of taxes imposed by the municipality  
20 on the transfer of real property in the municipality for the  
21 purpose of funding the program or programs.

22 Section 3. Initiative of electors.

23 In order for the question of whether to establish a land bank  
24 program or an affordable housing program, or both, to be  
25 initiated by petition of electors, petitions calling for the  
26 question containing signatures of at least 5% of the electors  
27 voting for the Office of Governor in the last gubernatorial  
28 general election in the municipality must be filed with the  
29 county board of elections.

30 Section 4. Filing of ordinance or petition.

1       The ordinance or petition calling for the question of whether  
2   to establish a land bank program or an affordable housing  
3   program, or both, that is to be submitted to the electors shall  
4   be filed with the election officials not later than the 13th  
5   Tuesday prior to the next primary, municipal or general  
6   election. The petition and proceedings therein shall be in the  
7   manner and subject to the provisions of the election laws which  
8   relate to the signing, filing and adjudication of nomination  
9   petitions insofar as such provisions are applicable, except that  
10   no petition shall be signed or circulated prior to the 20th  
11   Tuesday before the election nor later than the 13th Tuesday  
12   before the election.

13   Section 5.   Form of question for land bank program.

14       The question of whether to establish a land bank program  
15   shall be in substantially the following form:

16           "Do you favor the establishment, administration and  
17   maintenance of a land bank program for the purpose of  
18   enabling (insert name of municipality) to acquire open-space  
19   land or interests in such land to conserve natural and scenic  
20   resources, to preserve agricultural land and to augment  
21   public recreation opportunities and the dedication of taxes  
22   imposed by the municipality on the transfer of real property  
23   in the municipality for funding of the program?"

24   Section 6.   Form of question for affordable housing program.

25       The question of whether to establish an affordable housing  
26   program shall be in substantially the following form:

27           "Do you favor the establishment and administration of a  
28   program consisting of the awarding of grants to nonprofit  
29   organizations, housing authorities and redevelopment  
30   authorities to provide adequate, safe and affordable housing

1 in (insert name of municipality) for low-income individuals  
2 and families, and the dedication of taxes imposed by the  
3 municipality on the transfer of real property in the  
4 municipality for funding of the program?"

5 Section 7. Dual question.

6 In the event that the ordinance or petition calls for the  
7 question of whether to establish both a land bank program and an  
8 affordable housing program, the questions set forth in sections  
9 5 and 6 may be appropriately combined into one question.

10 Section 8. Dedication of portion of tax.

11 The ordinance or petition calling for a question of whether  
12 to establish a land bank program or an affordable housing  
13 program, or both, may call for some percentage less than all of  
14 the tax imposed by the municipality on the transfer of real  
15 property to be dedicated for the program or programs, in which  
16 case the question on the ballot shall be revised to indicate the  
17 portion of the tax to be so dedicated.

18 Section 9. Municipal option.

19 In the event that a special fund for purposes of affordable  
20 housing exists at the county level, a municipality shall have  
21 the option of dedicating the revenue derived from taxes imposed  
22 by the municipality on the transfer of real property and  
23 dedicated for affordable housing purposes to the county fund.  
24 Moneys so dedicated shall be deposited in the county special  
25 fund for affordable housing for use by the county in providing  
26 grants to nonprofit organizations, housing authorities and  
27 redevelopment authorities to provide adequate, safe and  
28 affordable housing in the municipality that exercises its option  
29 under this section.

30 Section 10. Establishment of program.

1       If a majority of the electors voting on the question of  
2   establishing, administering and maintaining a land bank program  
3   or an affordable housing program, or both, and dedicating taxes  
4   imposed by the municipality on the transfer of real property  
5   within the municipality in order to fund the program or programs  
6   vote in favor of the question, the governing body of the  
7   municipality within 90 days following the certification of the  
8   results of the election shall adopt an ordinance or ordinances  
9   establishing the appropriate program or programs. If both a land  
10  bank program and an affordable housing program are approved, the  
11  ordinance or ordinances shall specify the portion of available  
12  funds allocated to each program.

13  Section 11.  Special fund.

14       (a)  Establishment.--Unless a municipality exercises its  
15  option under section 9, all revenue derived from a tax imposed  
16  by the municipality on the transfer of real property in the  
17  municipality dedicated for land bank purposes or affordable  
18  housing purposes, or both, shall be remitted by the county  
19  recorder of deeds to the municipality and deposited in a special  
20  fund to be known as a land bank fund, affordable housing fund or  
21  land bank and affordable housing fund, whichever may be  
22  appropriate, and used exclusively for the purposes authorized by  
23  this act.

24       (b)  Donations.--The municipality may accept donations from  
25  any source for the purposes authorized by this act, and any  
26  funds so received, including any funds which may become  
27  available from the Federal or State government for the purposes  
28  stated in this act, all revenues derived from the sale of bonds  
29  for land bank purposes and interest accrued, shall be deposited  
30  in the appropriate special fund, including the special county

1 fund in the case of a municipality exercising its option under  
2 section 9.

3 (c) Deposit of proceeds.--All proceeds from the rental,  
4 lease or sale of any open-space land or an interest therein that  
5 the municipality acquired through a land bank program shall be  
6 deposited in the land bank fund.

7 Section 12. Acquisition of open-space land.

8 (a) Moneys in fund.--Moneys in a land bank fund shall be  
9 used by the municipality for the acquisition and maintenance of  
10 open-space land and interests in open-space land within the  
11 municipality and for related administrative expenses, including,  
12 but not limited to, expenditures for engineering, legal and  
13 appraisal services and for the repayment of debts incurred  
14 through the issuance of bonds under section 13.

15 (b) Approval not required.--When a land bank program has  
16 been established, no additional approval of the electors shall  
17 be required for the acquisition of open-space land or interests  
18 therein with money in a land bank fund, nor shall approval of  
19 the electors be required for the governing body of the  
20 municipality, on behalf of the municipality, to accept title to  
21 open-space lands or interests therein which may be donated to  
22 the municipality.

23 (c) Public notice.--The governing body of the municipality  
24 shall give public notice of a meeting at which final action on  
25 an acquisition of open-space land or an interest therein or  
26 acceptance of a donation of open-space land is to be taken,  
27 which public notice shall be given in the manner prescribed by  
28 65 Pa.C.S. Ch. 7 (relating to open meetings) and shall include a  
29 brief description of the proposed transaction.

30 (d) Advice of commission and advisory council.--The

governing body of the municipality shall seek the advice of the municipality's planning commission and the Environmental Advisory Council established under 53 Pa.C.S. Ch. 23 Subch. B (relating to environmental advisory councils) if the municipality has established such a council with respect to all transactions involving open-space land.

(e) Appraisals.--At least two independent appraisals shall be obtained prior to the purchase by the municipality of any open-space land or interest therein.

(f) Public purposes.--Any land acquired by a municipality under this act shall be deemed to be held and used for public purposes.

(g) Definition.--As used in this act, the term "open-space land" means land that will be used for any of the following purposes:

(1) To conserve natural or scenic resources, including, but not limited to, soils, beaches, streams, wetlands or tidal wetlands.

(2) To preserve agricultural land, including the preservation of agricultural land through the purchase of agricultural conservation easements as provided in the act of June 30, 1981 (P.L.128, No.43), known as the Agricultural Area Security Law.

(3) To enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or other public open spaces.

(4) To augment public recreation opportunities.

(5) To preserve sites of historic, geologic or botanic interest.

Section 13. Bond issues for open-space land.

1 In anticipation of moneys becoming available in a land bank  
2 fund, the governing body of the municipality may issue bonds for  
3 the exclusive purpose of acquiring and maintaining open-space  
4 land or interests therein.

5 Section 14. Conveyance of open-space land.

6 (a) Acquisition of land.--

7 (1) The governing body of the municipality may, by  
8 competitive bid as provided in subsection (b), and subject to  
9 the same requirements as provided in section 12(c), (d) and  
10 (e) for acquisition of open-space land, convey open-space  
11 land, portions thereof or interests therein subject to a  
12 protective covenant in the deed of conveyance that the land  
13 will be used only for the purposes of open-space land, as  
14 defined in this act, with reversion to the municipality in  
15 the event the covenant is violated.

16 (2) The protective covenant in the deed of conveyance  
17 shall state with specificity the use or restrictions on use  
18 applicable to the land so conveyed.

19 (3) No conveyance of open-space land or an interest  
20 therein without this protective covenant in the deed shall be  
21 made without approval of the court of common pleas.

22 (4) The court of common pleas may not approve the  
23 proposed conveyance without a protective covenant in the deed  
24 unless the court determines that there is an overriding  
25 public need that cannot be met through the use of any other  
26 land within the municipality.

27 (b) Sale of land.--

28 (1) Open-space land, portions thereof or interests  
29 therein may be sold by the municipality to the highest  
30 bidder, subject to the protective covenant specified in



1 subsection (a), after due notice by the advertisement for  
2 bids in one newspaper of general circulation in the  
3 municipality. The advertisement shall be published once not  
4 less than ten days prior to the date fixed for the opening of  
5 bids, and the date for opening bids shall be announced in the  
6 advertisement.

7 (2) The acceptance of bids shall be made only by public  
8 announcement at a regular or special meeting of the governing  
9 body of the municipality. All bids shall be accepted on the  
10 condition that payment of the purchase price in full shall be  
11 made within 90 days of the acceptance of bids.

12 (c) Donation of land.--Notwithstanding any other provision  
13 of this act, a municipality may donate land or any portion  
14 thereof or interest therein acquired pursuant to a land bank  
15 program to a conservancy which possesses a tax-exempt status  
16 under section 501(c)(3) of the Internal Revenue Code of 1986  
17 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) and which has as its  
18 primary purpose preservation of land for historic, recreational,  
19 scenic, agricultural or open-space opportunities. Prior to this  
20 donation, the governing body of the municipality shall give  
21 public notice in the manner provided in section 12(c). This  
22 donation shall be subject to the protective covenant specified  
23 in subsection (a).

24 Section 15. Use of affordable housing fund.

25 (a) Grants.--

26 (1) Moneys deposited in an affordable housing fund and  
27 interest earned on moneys deposited in this fund shall be  
28 used solely for the purpose of making grants to nonprofit  
29 organizations, housing authorities and redevelopment  
30 authorities for affordable housing purposes. Qualifications

1 for grants, the manner of making applications for grants and  
2 authorized uses of grant moneys shall be provided for in the  
3 ordinance establishing the affordable housing program.

4 (2) Authorized uses of grant moneys may include:

5 (i) Plan preparation.

6 (ii) The acquisition of property.

7 (iii) The construction of new residential buildings.

8 (iv) Demolition of existing buildings.

9 (v) Construction, reconstruction, alteration and  
10 repair of residential buildings.

11 (vi) Any other associated work, including  
12 administrative costs and the cost of professional and  
13 technical assistance.

14 (b) Public notice.--The governing body of the municipality  
15 shall give public notice of a meeting at which final action on a  
16 grant from the affordable housing fund is to be taken. The  
17 public notice shall be given in the manner prescribed by 65  
18 Pa.C.S. Ch. 7 (relating to open meetings) and shall include a  
19 brief description of the proposed project.

20 Section 16. Termination of land bank program or affordable  
21 housing program.

22 (a) Referendum.--The governing body of a municipality may,  
23 by ordinance, or the electors of a municipality may, by  
24 petition, cause to be submitted to the qualified voters of the  
25 municipality the question of whether the municipality should  
26 terminate an established land bank program, an established  
27 affordable housing program, or both.

28 (b) Petition.--A petition by the electors shall be in the  
29 same manner as provided for the establishment of such programs  
30 in section 3, and the ordinance or petition shall be filed in

1 the same manner as provided in section 4.

2 (c) Question.--The question of whether to terminate an  
3 established land bank program or an affordable housing program  
4 shall be in substantially the following form:

5 "Do you favor the termination of the existing  
6 program?"

7 This question shall be followed by a brief statement of the  
8 original purpose of the program. If both programs are to be  
9 considered for termination, the questions may be appropriately  
10 combined into one question.

11 (d) Election.--If a majority of the electors voting on the  
12 question vote in favor of termination, the governing body of the  
13 municipality shall, within 90 days following certification of  
14 the results of the election, adopt any ordinances necessary to  
15 terminate the program or programs.

16 Section 30. Effective date.

17 This act shall take effect immediately.