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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1369 Session of  
2013

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INTRODUCED BY BIZZARRO, MILLARD, LUCAS, KOTIK, NEILSON, SWANGER,  
PETRI, SONNEY, COHEN, MAHONEY, BROOKS AND KORTZ, MAY 13, 2013

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 13, 2013

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AN ACT

1 Authorizing the Department of General Services, with the  
2 approval of the Pennsylvania Historical and Museum Commission  
3 and the Governor, to grant and convey to the Fort LeBoeuf  
4 Historical Society certain lands situate in the Borough of  
5 Waterford, Erie County.

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

8 Section 1. Conveyance in the Borough of Waterford, Erie County.

9 (a) Authorization.--The Department of General Services, with  
10 the approval of the Pennsylvania Historical and Museum  
11 Commission and the Governor, is hereby authorized on behalf of  
12 the Commonwealth of Pennsylvania to grant and convey to the Fort  
13 LeBoeuf Historical Society certain lands and any improvements  
14 thereon, the property being known locally as the Fort LeBoeuf  
15 Museum situate in the Borough of Waterford, Erie County, for \$1.

16 (b) Property description.--The property to be conveyed  
17 pursuant to subsection (a) consists of approximately 1.17-acres,  
18 including any improvements located thereon, more particularly  
19 described as follows:

1 ALL THAT CERTAIN piece or parcel of land situate in the  
2 Borough of Waterford, Erie County, Pennsylvania, being a  
3 rectangle 155 feet by 330 feet, on the east side of High Street  
4 (Route #19), bounded by First Alley, Cherry Street (unopened)  
5 and Water Street (unopened).

6 BEING the same piece or parcel of land acquired by the  
7 Commonwealth of Pennsylvania, pursuant to Declaration of Taking,  
8 filed in the Office of the Prothonotary of the Court of Common  
9 Pleas of Erie County on September 30, 1968, at No. 2782 A Term  
10 1968, with a notice of the Declaration of Taking recorded at the  
11 Office of the Recorder of Deeds of Erie County at Book 990, Page  
12 84.

13 BEING Parcel ID #46-9-58-4.

14 (c) Easements.--The conveyance shall be made under and  
15 subject to all lawful and enforceable easements, servitudes and  
16 rights of others, including, but not confined to, streets,  
17 roadways and rights of any telephone, telegraph, water,  
18 electric, gas or pipeline companies, as well as under and  
19 subject to any lawful and enforceable estates or tenancies  
20 vested in third persons appearing of record, for any portion of  
21 the land or improvements erected thereon.

22 (d) Condition.--Any conveyance authorized under this section  
23 shall be made under and subject to the condition, which shall be  
24 contained in the deed of conveyance, that no portion of the  
25 property conveyed shall be used as a licensed facility, as  
26 defined in 4 Pa.C.S. § 1103 (relating to definitions), or any  
27 other similar type of facility authorized under State law. The  
28 condition shall be a covenant running with the land and shall be  
29 binding upon the Grantee and its successors. Should the Grantee,  
30 or its successors, permit any portion of the property authorized

1 to be conveyed in this section to be used in violation of this  
2 subsection, the title shall immediately revert to and revest in  
3 the Grantor.

4 (e) Restrictive covenants.--The following restrictive  
5 covenants shall be included in the deed of conveyance:

6 Declaration of Covenants

7 Fort LeBoeuf Museum

8 Borough of Waterford, Erie County, Pennsylvania

9 I. Covenants.

10 a. The deed of transfer of this property, which property  
11 shall hereinafter be described in this agreement as "Fort  
12 LeBoeuf Museum," shall contain the following language:

13 "Fort LeBoeuf Historical Society and its successors,  
14 (hereafter referred to as "FLHS") covenants and agrees to  
15 assume responsibility for the maintenance, preservation,  
16 and administration of the property in a manner that is  
17 satisfactory to the Pennsylvania Historical and Museum  
18 Commission ("Commission") for a demonstrable public  
19 benefit in perpetuity; under and subject to the condition  
20 that the buildings and lands conveyed herein shall be  
21 accessible to the public."

22 b. The provisions of these covenants, hereinafter  
23 expressed as covenants running with the land, are herein  
24 set forth so as to ensure the maintenance and preservation  
25 of the qualities, natural resources and historical  
26 characteristics of Fort LeBoeuf Museum.

27 II. Standards for Historic Preservation.

28 a. Fort LeBoeuf Museum shall be maintained and preserved  
29 in accordance with the Secretary of the Interior's  
30 Standards for the Treatment of Historic Properties.

1       b.   No construction, alteration, rehabilitation,  
2       remodeling, demolition, site development, ground  
3       disturbance, or other action shall be undertaken or  
4       permitted to said property without the prior written  
5       permission from the Commission.

6       c.   Prior to the commencement of work, FLHS agrees to  
7       notify, in writing, the Commission of all such work on  
8       said property in advance.

9       d.   The Commission will be given forty-five (45) days  
10      from receipt of the notice (sent via certified mail) to  
11      review and approve in writing the appropriateness of said  
12      work. If no response is provided within forty-five (45)  
13      days, consent shall be implied.

14   III.       Requirements and Standards for Archaeological  
15   Investigation.

16      a.   For work that involves ground disturbance, the  
17      Commission may require archaeological investigation, for  
18      which FLHS shall have financial responsibility.

19      b.   In the event that archaeological materials are  
20      discovered during ground-disturbing activities, work shall  
21      temporarily cease, and the Commission shall be consulted  
22      for instructions prior to proceeding with the work.

23      c.   Any archaeological work shall be conducted in  
24      accordance with the Secretary of the Interior's Standards  
25      and Guidelines for Archaeological Documentation (48FR  
26      447344-37) and any such standards and guidelines as the  
27      Commission may specify.

28   IV.       Access.

29      a.   FLHS shall allow the Commission, at all reasonable  
30      times and upon reasonable advance notice to FLHS, access

1 to inspect said property to ensure compliance with this  
2 preservation covenant.

3 V. Right of Reverter.

4 a. The deed of conveyance shall contain a clause that  
5 the title to the property shall immediately revert to and  
6 revest in the Commonwealth should FLHS sell or transfer  
7 the property or permit the property to be used for any  
8 purpose other than as a museum, or related business and/or  
9 curatorial offices, for any length of time.

10 b. FLHS may petition the Commission for a waiver of this  
11 provision if a proposed usage would meet the spirit of  
12 this agreement.

13 c. The Commission must specifically approve any waiver  
14 of this provision.

15 VI. Binding in Perpetuity.

16 a. This covenant is binding on FLHS and its successors  
17 in perpetuity.

18 b. This covenant shall be binding servitude upon the  
19 property and shall be deemed to run with the land.

20 c. Execution of this covenant shall constitute evidence  
21 that FLHS agrees to be bound by the foregoing conditions  
22 and restrictions and to perform the obligations herein set  
23 forth.

24 (f) Deed of conveyance.--The deed of conveyance shall be  
25 executed by the Secretary of General Services in the name of the  
26 Commonwealth of Pennsylvania.

27 (g) Costs and fees.--Costs and fees incidental to this  
28 conveyance shall be borne by the Grantee.

29 (h) Expiration.--In the event that the conveyance is not  
30 effectuated within one year of the effective date of this

1 section, the authority contained in this section shall expire.

2 Section 2. Effective date.

3 This act shall take effect in 60 days.