

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 959 Session of  
1997

INTRODUCED BY HENNESSEY, HERMAN, BAKER, DENT, LEH, ITKIN,  
STABACK, BELARDI, ARGALL, DeLUCA, BATTISTO, CAWLEY,  
TRAVAGLIO, RAYMOND, GEIST, GLADECK, VAN HORNE, BROWNE,  
L. I. COHEN, FARGO, BENNINGHOFF, RAMOS, STETLER, STEELMAN,  
CIVERA AND PETRONE, MARCH 25, 1997

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, DECEMBER 8, 1997

AN ACT

1 Amending the act of June 24, 1931 (P.L.1206, No.331), entitled  
2 "An act concerning townships of the first class; amending,  
3 revising, consolidating, and changing the law relating  
4 thereto," further providing for property; AND AUTHORIZING <—  
5 CERTAIN HOME RULE MUNICIPALITIES TO LEVY, ASSESS AND COLLECT  
6 A MERCANTILE TAX AND A BUSINESS PRIVILEGE TAX ON GROSS  
7 RECEIPTS OR PARTS OF GROSS RECEIPTS.

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

10 Section 1. Section 1501 of the act of June 24, 1931  
11 (P.L.1206, No.331), known as The First Class Township Code,  
12 reenacted and amended May 27, 1949 (P.L.1955, No.569) and  
13 amended June 26, 1995 (P.L.66, No.13), is amended to read:

14 Section 1501. Suits; Property.--Townships of the first class  
15 may--

16 I. Sue and be sued.

17 II. Purchase, acquire by gift, or otherwise, hold, lease,  
18 let and convey, by sale or lease, such real and personal

1 property as shall be deemed to be to the best interest of the  
2 township: Provided, That no real estate owned by the township  
3 shall be sold for a consideration in excess of one thousand five  
4 hundred dollars except to the highest bidder after due notice by  
5 advertisement for bids or advertisement of a public auction in  
6 one newspaper of general circulation in the township. Such  
7 advertisement shall be published once not less than ten days  
8 prior to the date fixed for the opening of bids or public  
9 auction, and such date for opening bids or public auction shall  
10 be announced in such advertisement. The award of contracts shall  
11 be made only by public announcement at a regular or special  
12 meeting of the board of township commissioners or at the public  
13 auction. All bids shall be accepted on the condition that  
14 payment of the purchase price in full shall be made within sixty  
15 days of the acceptance of bids.

16 The board of township commissioners shall have the authority  
17 to reject all bids if such bids are deemed to be less than the  
18 fair market value of the real property. In the case of a public  
19 auction, the board of township commissioners may establish a  
20 minimum bid based on the fair market value of the real property.

21 Except as otherwise hereinafter provided in the case of  
22 personal property of an estimated fair market value of less than  
23 one thousand dollars, no township personal property shall be  
24 disposed of, by sale or otherwise, except upon approval of the  
25 board of township commissioners, by ordinance or resolution. In  
26 cases where the board of township commissioners shall approve a  
27 sale of such property, it shall estimate the fair market value  
28 of the entire lot to be disposed of. If the board of township  
29 commissioners shall estimate the fair market value to be one  
30 thousand dollars or more, the entire lot shall be advertised for

1 sale once, in at least one newspaper of general circulation in  
2 the township, not less than ten days prior to the date fixed for  
3 the opening of bids or public auction, and such date of opening  
4 of bids or public auction shall be announced in such  
5 advertisement, and sale of the property so advertised shall be  
6 made to the best responsible bidder. The board of township  
7 commissioners may reject any bids received if the bids are  
8 believed to be less than the fair market value of the property.  
9 The board of township commissioners shall, by resolution, adopt  
10 a procedure for the sale of surplus personal property, either  
11 individual items or lots of items, of an estimated fair market  
12 value of less than one thousand dollars and the approval of the  
13 board of township commissioners shall not be required for any  
14 individual sale that shall be made in conformity to such  
15 procedure.

16 The provisions of this clause shall not be mandatory where  
17 township property is to be traded in or exchanged for new  
18 township property.

19 The provisions of this clause shall not prohibit the sale or  
20 exchange of township property to public utilities.

21 The provisions of this clause requiring advertising for bids  
22 or sale at public auction and sale to the highest bidder shall  
23 not apply where township real or personal property is to be sold  
24 to a county, city, borough, town, township, institution  
25 district, school district, volunteer fire company, volunteer  
26 ambulance service or volunteer rescue squad located within the  
27 township, or municipal authority pursuant to the Municipality  
28 Authorities Act of 1945, or to a nonprofit corporation engaged  
29 in community industrial, commercial or affordable housing  
30 development or reuse or where real property is to be sold to a

1 person for his exclusive use in an industrial development  
2 program or where real property is to be sold to a nonprofit  
3 corporation organized as a public library, or where real  
4 property is to be sold to a nonprofit medical service  
5 corporation as authorized by clause LXXII of section 1502, or  
6 where real property is to be sold to a nonprofit housing  
7 corporation as authorized by clause LXXIII of section 1502. When  
8 real property is to be sold to a nonprofit corporation organized  
9 as a public library or to a nonprofit medical service  
10 corporation or to a nonprofit housing corporation the board of  
11 township commissioners may elect to accept such nominal  
12 consideration for such sale as it shall deem appropriate. Real  
13 property sold pursuant to this clause to a volunteer fire  
14 company, volunteer ambulance service or volunteer rescue squad,  
15 nonprofit medical service corporation or to a nonprofit housing  
16 corporation shall be subject to the condition that when the  
17 property is not used for the purposes of the company, service,  
18 squad or the corporation the property shall revert to the  
19 township.

20 Any officer who sells and each officer who votes in favor of  
21 selling any township property, either real or personal, without  
22 the provisions of this section having been complied with, shall  
23 be subject to surcharge in the amount of any loss sustained by  
24 the township by reason of such sale.

25 The exemption granted by this clause to nonprofit  
26 corporations engaged in community, industrial, commercial or  
27 affordable housing development or reuse shall not apply to  
28 property owned and operated by the township or subcontracted or  
29 operated on the behalf of the township in order to conduct  
30 existing governmental functions.

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

SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

SECTION 1709.2. AUTHORITY TO LEVY, ASSESS AND COLLECT  
MERCANTILE AND BUSINESS PRIVILEGE TAXES ON GROSS RECEIPTS.--  
NOTWITHSTANDING SECTION 533(B) OF THE ACT OF DECEMBER 13, 1988  
(P.L.1121, NO.145), KNOWN AS THE "LOCAL TAX REFORM ACT," A  
TOWNSHIP OF THE FIRST CLASS OR A HOME RULE MUNICIPALITY THAT  
PREVIOUSLY HAD BEEN A TOWNSHIP OF THE FIRST CLASS, AND THAT HAS  
A POPULATION EXCEEDING 70,000 WHICH, BEFORE DECEMBER 1, 1988,  
HAS LEVIED, ASSESSED OR COLLECTED OR PROVIDED FOR THE LEVYING,  
ASSESSMENT OR COLLECTION OF A MERCANTILE TAX ON GROSS RECEIPTS  
OR PARTS OF GROSS RECEIPTS MAY LEVY, ASSESS AND COLLECT OR  
PROVIDE FOR THE LEVYING, ASSESSMENT OR COLLECTION OF MERCANTILE  
AND BUSINESS PRIVILEGE TAXES ON GROSS RECEIPTS OR PARTS OF GROSS  
RECEIPTS. THIS AUTHORITY SHALL APPLY TO THE TAX YEAR BEGINNING  
JANUARY 1, 1998, AND TO EACH TAX YEAR THEREAFTER.

SECTION 3. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

(1) THE ADDITION OF SECTION 1709.2 OF THE ACT SHALL TAKE  
EFFECT IMMEDIATELY.

(2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

(3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60  
DAYS.