

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2798 Session of
2004

INTRODUCED BY NAILOR, RUBLEY, ARGALL, DeWEESE, BALDWIN, BUNT,
CAPPELLI, CAUSER, CREIGHTON, GRUCELA, HARHART, HARRIS,
HERSHEY, HESS, JAMES, KILLION, LEDERER, LYNCH, MACKERETH,
R. MILLER, NICKOL, PHILLIPS, ROSS, SAYLOR, SCAVELLO,
SCRIMENTI, SHANER, B. SMITH, R. STEVENSON AND E. Z. TAYLOR,
JULY 3, 2004

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JULY 3, 2004

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 borough powers to convey land.

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

7 Section 1. Section 1201 of the act of February 1, 1966 (1965
8 P.L.1656, No.581), known as The Borough Code, amended December
9 14, 1989 (P.L.626, No.73) and May 7, 1998 (P.L.347, No.54), is
10 amended to read:

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

12 (1) Have succession perpetually by its corporate name.

13 (2) Sue and be sued, and complain and defend in the courts
14 of the Commonwealth.

15 (3) Make and use a common seal, and alter the same at
16 pleasure.

17 (4) Purchase, acquire by gift, or otherwise, hold, lease,

1 let and convey, by sale or lease, such real and personal
2 property as shall be deemed to be to the best interest of the
3 borough, subject to the following restrictions, limitations or
4 exceptions:

5 (i) No real estate owned by the borough shall be sold for a
6 consideration in excess of fifteen hundred dollars (\$1500),
7 except to the highest bidder after due notice by advertisement
8 for bids or advertisement of a public auction in one newspaper
9 of general circulation in the borough. Such advertisement shall
10 be published once not less than ten days prior to the date fixed
11 for the opening of bids or public auction, and such date for
12 opening bids or public auction shall be announced in such
13 advertisement. The award of contracts shall be made only by
14 public announcement at a regular or special meeting of council
15 or at the public auction. All bids shall be accepted on the
16 condition that payment of the purchase price in full shall be
17 made within sixty days of the acceptance of bids. The borough
18 council shall have the authority to reject all bids if such bids
19 are deemed to be less than the fair market value of the real
20 property. In the case of a public auction, the borough council
21 may establish a minimum bid based on the fair market value of
22 the real property. Real estate owned by a borough may be sold at
23 a consideration of fifteen hundred dollars (\$1500) or less
24 without advertisement or competitive bidding only after council
25 estimates the value thereof upon receipt of an appraisal by a
26 qualified real estate appraiser.

27 (ii) Except as otherwise hereinafter provided in the case of
28 personal property of an estimated fair market value of less than
29 one thousand dollars (\$1,000), no borough personal property
30 shall be disposed of, by sale or otherwise, except upon approval

1 of council, by ordinance or resolution. In cases where council
2 shall approve a sale of such property, it shall estimate the
3 fair market value of the entire lot to be disposed of. If
4 council shall estimate the fair market value to be one thousand
5 dollars (\$1,000) or more, the entire lot shall be advertised for
6 sale once, in at least one newspaper of general circulation in
7 the borough, not less than ten days prior to the date fixed for
8 the opening of bids or public auction, and such date of opening
9 of bids or public auction, shall be announced in such
10 advertisement, and sale of the property so advertised shall be
11 made to the best responsible bidder. Council may reject any bids
12 received if the bids are believed to be less than the fair
13 market value of the property. Council shall, by resolution,
14 adopt a procedure for the sale of surplus personal property,
15 either individual items or lots of items, of an estimated fair
16 market value of less than one thousand dollars (\$1,000) and the
17 approval of council shall not be required for any individual
18 sale that shall be made in conformity to such procedure.

19 (iii) The provisions of this clause shall not be mandatory
20 where borough property is to be traded in or exchanged for new
21 borough property.

22 (iv) The provisions of this clause requiring advertising for
23 bids or sale at public auction and sale to the highest bidder
24 shall not apply where borough real or personal property is to be
25 sold to:

26 (A) a county, city, borough, town, township, institution
27 district, school district, volunteer fire company, volunteer
28 ambulance service or volunteer rescue squad located within the
29 borough;

30 (B) a municipal authority pursuant to the Municipality

1 Authorities Act of 1945;

2 (C) a non-profit corporation engaged in community
3 development or reuse only upon entering into a written agreement
4 with the non-profit corporation that requires the property to be
5 used for industrial, commercial or affordable housing purposes.
6 This exemption shall not apply to property on which existing
7 governmental functions are conducted;

8 (D) where real property is to be sold to a person for his
9 exclusive use in an industrial development program;

10 (E) where real property is to be sold to a non-profit
11 corporation organized as a public library for its exclusive use
12 as a library;

13 (F) where real property is to be sold to a non-profit
14 medical service corporation as authorized by clause (76) of
15 section 1202;

16 (G) where real property is to be sold to a non-profit
17 housing corporation as authorized by clause (77) of section
18 1202; [or]

19 (H) where real property is to be sold to the Commonwealth or
20 to the Federal Government[.]; or

21 (I) where real property is to be sold to a non-profit museum
22 or historical society.

23 (v) When real property is to be sold to a non-profit
24 corporation organized as a public library for its exclusive use
25 as a library or to a non-profit medical service corporation or
26 to a non-profit housing corporation, council may elect to accept
27 such nominal consideration for such sale as it shall deem
28 appropriate.

29 (vi) Real property sold pursuant to this clause to a
30 volunteer fire company, volunteer ambulance service or volunteer

1 rescue squad, non-profit medical service corporation or to a
2 non-profit housing corporation shall be subject to the condition
3 that when the property is not used for the purposes of the
4 company, service, squad or the corporation the property shall
5 revert to the borough.

6 (vii) The exemption granted under subclause (iv)(C) shall
7 not apply to property owned and operated by the borough or
8 subcontracted or operated on the behalf of the borough in order
9 to conduct existing governmental functions.

10 (5) To invest in or purchase bonds of any municipal
11 authority or parking authority created solely by the borough,
12 for the purpose either of investment or of possible retirement
13 of such bonds and acquisition of authority projects at an
14 earlier date than originally contemplated, using for the purpose
15 either surplus funds of the borough or money appropriated in the
16 annual budget for the purpose.

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