

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 373 Session of 2011

INTRODUCED BY ROSS, MILLARD, BOYD, CALTAGIRONE, CARROLL, CUTLER,
D. EVANS, EVERETT, FLECK, FRANKEL, GEIST, GINGRICH, GRELL,
HICKERNELL, KNOWLES, KORTZ, MICOZZIE, MILNE, MOUL, O'NEILL,
REICHLEY, VULAKOVICH AND HESS, FEBRUARY 1, 2011

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, FEBRUARY 1, 2011

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 general powers.

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 November
9 29, 2004 (P.L.1337, No.170) and June 30, 2007 (P.L.47, No.15) 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,
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 borough, subject to the following restrictions, limitations or
3 exceptions:

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

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

1 shall approve a sale of such property, it shall estimate the
2 fair market value of the entire lot to be disposed of. If
3 council shall estimate the fair market value to be one thousand
4 dollars (\$1,000) or more, the entire lot shall be advertised for
5 sale once, in at least one newspaper of general circulation in
6 the borough, not less than ten days prior to the date fixed for
7 the opening of bids or public auction, and such date of opening
8 of bids or public auction, shall be announced in such
9 advertisement, and sale of the property so advertised shall be
10 made to the best responsible bidder. A public auction of
11 personal property may be conducted by means of an online or
12 electronic auction sale. During an electronic auction sale, bids
13 shall be accepted electronically at the time and in the manner
14 designated in the advertisement. During the electronic auction,
15 each bidder shall have the capability to view the bidder's bid
16 rank or the high bid price. Bidders may increase their bid
17 prices during the electronic auction. The record of the
18 electronic auction shall be accessible for public inspection.
19 The purchase price shall be paid by the high bidder immediately
20 or at a reasonable time after the conclusion of the electronic
21 auction as determined by council. In the event that shipping
22 costs are incurred, they shall be paid by the high bidder. A
23 borough that has complied with the advertising requirements of
24 this section may provide additional public notice of the sale by
25 bids or public auction in any manner deemed appropriate by
26 council. The advertisement for electronic auction sales
27 authorized in this subclause shall include the Internet address
28 or means of accessing the electronic auction and the date, time
29 and duration of the electronic auction. Council may reject any
30 bids received if the bids are believed to be less than the fair

1 market value of the property. Council shall, by resolution,
2 adopt a procedure for the sale of surplus personal property,
3 either individual items or lots of items, of an estimated fair
4 market value of less than one thousand dollars (\$1,000) and the
5 approval of council shall not be required for any individual
6 sale that shall be made in conformity to such procedure.

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

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

14 (A) a county, city, borough, town, township, institution
15 district, school district, volunteer fire company, volunteer
16 ambulance service or volunteer rescue squad located within the
17 borough;

18 (A.1) a council of government, consortium, cooperative or
19 other similar entity created pursuant to 53 Pa.C.S. Ch. 23
20 (relating to intergovernmental cooperation);

21 (B) [a municipal authority pursuant to the Municipality
22 Authorities Act of 1945] an authority as defined in 53 Pa.C.S. §
23 5602 (relating to definitions);

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

30 (D) where real property is to be sold to a person for his

1 exclusive use in an industrial development program;

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

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

8 (G) where real property is to be sold to a non-profit
9 housing corporation as authorized by clause (77) of section
10 1202;

11 (H) where real property is to be sold to the Commonwealth or
12 to the Federal Government; or

13 (I) where real property is to be sold to a non-profit museum
14 or historical society for its exclusive use as a non-profit
15 museum or historical society.

16 (v) When real property is to be sold to a non-profit
17 corporation organized as a public library for its exclusive use
18 as a library or to a non-profit medical service corporation or
19 to a non-profit housing corporation, council may elect to accept
20 such nominal consideration for such sale as it shall deem
21 appropriate.

22 (vi) Real property sold pursuant to this clause to a
23 volunteer fire company, volunteer ambulance service or volunteer
24 rescue squad, non-profit medical service corporation or to a
25 non-profit housing corporation shall be subject to the condition
26 that when the property is not used for the purposes of the
27 company, service, squad or the corporation the property shall
28 revert to the borough.

29 (vii) The exemption granted under subclause (iv) (C) shall
30 not apply to property owned and operated by the borough or

1 subcontracted or operated on the behalf of the borough in order
2 to conduct existing governmental functions.

3 (5) To invest in or purchase bonds of any municipal
4 authority or parking authority created solely by the borough,
5 for the purpose either of investment or of possible retirement
6 of such bonds and acquisition of authority projects at an
7 earlier date than originally contemplated, using for the purpose
8 either surplus funds of the borough or money appropriated in the
9 annual budget for the purpose.

10 Section 2. This act shall take effect immediately.