

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1175 Session of
1983

INTRODUCED BY FRYER, SWEET, STUBAN, A. C. FOSTER, JR. AND LEVI,
JUNE 7, 1983

SENATOR CORMAN, LOCAL GOVERNMENT, IN SENATE, AS AMENDED,
SEPTEMBER 18, 1984

AN ACT

1 ~~Amending the act of December 31, 1965 (P.L.1257, No.511),~~ <—
2 ~~entitled "An act empowering cities of the second class,~~
3 ~~cities of the second class A, cities of the third class,~~
4 ~~boroughs, towns, townships of the first class, townships of~~
5 ~~the second class, school districts of the second class,~~
6 ~~school districts of the third class and school districts of~~
7 ~~the fourth class including independent school districts, to~~
8 ~~levy, assess, collect or to provide for the levying,~~
9 ~~assessment and collection of certain taxes subject to maximum~~
10 ~~limitations for general revenue purposes; authorizing the~~
11 ~~establishment of bureaus and the appointment and compensation~~
12 ~~of officers, agencies and employes to assess and collect such~~
13 ~~taxes; providing for joint collection of certain taxes,~~
14 ~~prescribing certain definitions and other provisions for~~
15 ~~taxes levied and assessed upon earned income, providing for~~
16 ~~annual audits and for collection of delinquent taxes, and~~
17 ~~permitting and requiring penalties to be imposed and~~
18 ~~enforced, including penalties for disclosure of confidential~~
19 ~~information, providing an appeal from the ordinance or~~
20 ~~resolution levying such taxes to the court of quarter~~
21 ~~sessions and to the Supreme Court and Superior Court,"~~
22 ~~excluding from the authority to levy realty transfer taxes~~
23 ~~transfers between brothers and sisters or their spouses.~~

24 AMENDING THE ACT OF APRIL 13, 1972 (P.L.184, NO.62), ENTITLED <—
25 "AN ACT GIVING MUNICIPALITIES THE RIGHT AND POWER TO ADOPT
26 HOME RULE CHARTERS OR ONE OF SEVERAL OPTIONAL PLANS OF
27 GOVERNMENT AND TO EXERCISE THE POWERS AND AUTHORITY OF LOCAL
28 SELF-GOVERNMENT SUBJECT TO CERTAIN RESTRICTIONS AND
29 LIMITATIONS; PROVIDING PROCEDURES FOR SUCH ADOPTION AND
30 DEFINING THE EFFECT THEREOF," FURTHER PROVIDING FOR THE
31 TAXATION OF RESIDENTS AND NONRESIDENTS BY HOME RULE

1 MUNICIPALITIES.

2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 ~~Section 1. Section 2(1) of the act of December 31, 1965~~ <—
5 ~~(P.L.1257, No.511), known as The Local Tax Enabling Act, amended~~
6 ~~July 1, 1981 (P.L.184, No.53) and June 23, 1982 (P.L.593,~~
7 ~~No.168), is amended to read:~~

8 ~~Section 2. Delegation of Taxing Powers and Restrictions~~
9 ~~Thereon. The duly constituted authorities of the following~~
10 ~~political subdivisions, cities of the second class, cities of~~
11 ~~the second class A, cities of the third class, boroughs, towns,~~
12 ~~townships of the first class, townships of the second class,~~
13 ~~school districts of the second class, school districts of the~~
14 ~~third class, and school districts of the fourth class, in all~~
15 ~~cases including independent school districts, may, in their~~
16 ~~discretion, by ordinance or resolution, for general revenue~~
17 ~~purposes, levy, assess and collect or provide for the levying,~~
18 ~~assessment and collection of such taxes as they shall determine~~
19 ~~on persons, transactions, occupations, privileges, subjects and~~
20 ~~personal property within the limits of such political~~
21 ~~subdivisions, and upon the transfer of real property, or of any~~
22 ~~interest in real property, situate within the political~~
23 ~~subdivision levying and assessing the tax, regardless of where~~
24 ~~the instruments making the transfers are made, executed or~~
25 ~~delivered or where the actual settlements on such transfer take~~
26 ~~place. The taxing authority may provide that the transferee~~
27 ~~shall remain liable for any unpaid realty transfer taxes imposed~~
28 ~~by virtue of this act. Each local taxing authority may, by~~
29 ~~ordinance or resolution, exempt any person whose total income~~
30 ~~from all sources is less than five thousand dollars (\$5,000) per~~

1 ~~annum from the per capita or similar head tax, occupation tax~~
2 ~~and occupational privilege tax, or earned income tax, or any~~
3 ~~portion thereof, and may adopt regulations for the processing of~~
4 ~~claims for exemptions. Such local authorities shall not have~~
5 ~~authority by virtue of this act:~~

6 ~~(1) To levy, assess and collect or provide for the levying,~~
7 ~~assessment and collection of any tax on the transfer of real~~
8 ~~property when the transfer is by will or mortgage or the~~
9 ~~intestate laws of this Commonwealth or on a transfer by the~~
10 ~~owner of previously occupied residential premises to a builder~~
11 ~~of new residential premises when such previously occupied~~
12 ~~residential premises is taken in trade by such builder as part~~
13 ~~of the consideration from the purchaser of a new previously~~
14 ~~unoccupied single family residential premises or on a transfer~~
15 ~~between corporations operating housing projects pursuant to the~~
16 ~~housing and redevelopment assistance law and the shareholders~~
17 ~~thereof, or on a transfer between nonprofit industrial~~
18 ~~development agencies and industrial corporations purchasing from~~
19 ~~them, or on transfer to or from nonprofit industrial development~~
20 ~~agencies, or on a transfer between husband and wife, or on a~~
21 ~~transfer between persons who were previously husband and wife~~
22 ~~but who have since been divorced; provided such transfer is made~~
23 ~~within three months of the date of the granting of the final~~
24 ~~decree in divorce, or the decree of equitable distribution of~~
25 ~~marital property, whichever is later, and the property or~~
26 ~~interest therein, subject to such transfer, was acquired by the~~
27 ~~husband and wife, or husband or wife, prior to the granting of~~
28 ~~the final decree in divorce, or on a transfer between parent and~~
29 ~~child or the spouse of such a child, or between parent and~~
30 ~~trustee for the benefit of a child or the spouse of such child,~~

~~1 or on a transfer between a grandparent and grandchild or the
2 spouse of such grandchild, or on a transfer between brother and
3 sister or brother and brother or sister and sister or the spouse
4 of such brother or sister, or on a transfer to a conservancy
5 which possesses a tax exempt status pursuant to section
6 501(c)(3) of the Internal Revenue Code, and which has as its
7 primary purpose the preservation of land for historic,
8 recreational, scenic, agricultural or open space opportunities,
9 by and between a principal and straw party for the purpose of
10 placing a mortgage or ground rent upon the premises, or on a
11 correctional deed without consideration, or on a transfer to the
12 United States, the Commonwealth of Pennsylvania, or to any of
13 their instrumentalities, agencies or political subdivisions, by
14 gift, dedication or deed in lieu of condemnation, or deed of
15 confirmation in connection with condemnation proceedings, or
16 reconveyance by the condemning body of the property condemned to
17 the owner of record at the time of condemnation which
18 reconveyance may include property line adjustments provided said
19 reconveyance is made within one year from the date of
20 condemnation, leases, or on a conveyance to a trustee under a
21 recorded trust agreement for the express purpose of holding
22 title in trust as security for a debt contracted at the time of
23 the conveyance under which the trustee is not the lender and
24 requiring the trustee to make reconveyance to the grantor
25 borrower upon the repayment of the debt, or in any sheriff sale
26 instituted by a mortgagee in which the purchaser of said sheriff
27 sale is the mortgagee who instituted said sale, or on a
28 privilege, transaction, subject, occupation or personal property
29 which is now or does hereafter become subject to a State tax or
30 license fee;~~

1 * * *

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

3 SECTION 1. SECTION 102 OF THE ACT OF APRIL 13, 1972
4 (P.L.184, NO.62), KNOWN AS THE HOME RULE CHARTER AND OPTIONAL
5 PLANS LAW, IS AMENDED BY ADDING DEFINITIONS TO READ:

6 SECTION 102. AS USED IN THIS ACT:

7 * * *

8 "NONRESIDENT" MEANS ANY PERSON OR ENTITY NOT A RESIDENT
9 WITHIN THE MEANING OF THIS ACT.

10 * * *

11 "RATE OF TAXATION" MEANS THE AMOUNT OF TAX LEVIED BY A
12 MUNICIPALITY ON A PERMISSIBLE SUBJECT OF TAXATION.

13 "RESIDENT" MEANS ANY PERSON, OR ANY CORPORATION, PARTNERSHIP,
14 ASSOCIATION, JOINT STOCK ASSOCIATION OR OTHER ENTITY LIVING IN
15 OR MAINTAINING A PERMANENT OR FIXED PLACE OF ABODE IN A
16 MUNICIPALITY AND CONDUCTING OR ENGAGING IN A BUSINESS FOR PROFIT
17 WITHIN A MUNICIPALITY AND PERFORMING WITHIN A MUNICIPALITY AND
18 DISCHARGING ALL OR PART OF THE AFFAIRS OF A BUSINESS FOR PROFIT.

19 "SUBJECT OF TAXATION" MEANS ANY PERSON, BUSINESS,
20 CORPORATION, PARTNERSHIP, ENTITY, REAL PROPERTY, TANGIBLE OR
21 INTANGIBLE PERSONAL PROPERTY, PROPERTY INTEREST, TRANSACTION OR
22 OCCURRENCE WHICH IS DETERMINED TO BE TAXABLE BY THE GENERAL
23 ASSEMBLY.

24 "UNIFORM ACT" MEANS AN ACT OF THE GENERAL ASSEMBLY APPLICABLE
25 OR INTENDED TO BE APPLICABLE THROUGHOUT THE COMMONWEALTH AND
26 WHICH APPLIES OR IS INTENDED TO APPLY TO EACH AND EVERY
27 MUNICIPALITY OF THE COMMONWEALTH WITHOUT EXCEPTION IN THE SAME
28 MANNER AND TO THE SAME EXTENT. FOR THE PURPOSES OF THIS
29 DEFINITION, THE TERM "MUNICIPALITY" SHALL MEAN ALL COUNTIES,
30 CITIES, BOROUGH, INCORPORATED TOWNS AND TOWNSHIPS WITHIN THE

1 COMMONWEALTH.

2 SECTION 2. SECTION 302 OF THE ACT, AMENDED JULY 3, 1974
3 (P.L.421, NO.148), IS AMENDED TO READ:

4 SECTION 302. (A) THE HOME RULE CHARTER ADOPTED IN
5 ACCORDANCE WITH THE PROVISIONS OF THIS ACT SHALL NOT GIVE ANY
6 POWER OR AUTHORITY TO THE MUNICIPALITY CONTRARY TO, OR IN
7 LIMITATION OR ENLARGEMENT OF POWERS GRANTED BY ACTS OF THE
8 GENERAL ASSEMBLY WHICH ARE APPLICABLE TO A CLASS OR CLASSES OF
9 MUNICIPALITIES ON THE FOLLOWING SUBJECTS:

10 (1) THE FILING AND COLLECTION OF MUNICIPAL TAX CLAIMS OR
11 LIENS AND THE SALE OF REAL OR PERSONAL PROPERTY IN SATISFACTION
12 THEREOF.

13 (2) THE PROCEDURES IN THE EXERCISE OF THE POWERS OF EMINENT
14 DOMAIN, AND THE ASSESSMENT OF DAMAGES AND BENEFITS FOR PROPERTY
15 TAKEN, INJURED OR DESTROYED.

16 (3) BOUNDARY CHANGES OF MUNICIPALITIES.

17 (4) REGULATION OF PUBLIC SCHOOLS.

18 (5) THE REGISTRATION OF ELECTORS AND THE CONDUCT OF
19 ELECTIONS.

20 [(6) THE FIXING OF SUBJECTS OF TAXATION.

21 (7) THE FIXING OF THE RATES OF NONPROPERTY OR PERSONAL TAXES
22 LEVIED UPON NONRESIDENTS.

23 (8) THE ASSESSMENT OF REAL OR PERSONAL PROPERTY AND PERSONS
24 FOR TAXATION PURPOSES.]

25 (9) DEFINING OR PROVIDING FOR THE PUNISHMENT OF ANY FELONY
26 OR MISDEMEANOR.

27 (10) MUNICIPAL PLANNING UNDER THE PROVISIONS OF THE ACT OF
28 JULY 31, 1968 (P.L.805, NO.247), KNOWN AS THE "PENNSYLVANIA
29 MUNICIPALITIES PLANNING CODE."

30 (A.1) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ACT OR

1 THE PROVISIONS OF ANY ACT OF THE GENERAL ASSEMBLY TO THE
2 CONTRARY, A MUNICIPALITY WHICH HAS ADOPTED A HOME RULE CHARTER
3 SHALL HAVE, WITHOUT LIMITATION, THE POWER AND AUTHORITY TO ENACT
4 AND ENFORCE LOCAL TAX ORDINANCES UPON ANY SUBJECT OF TAXATION AT
5 ANY RATE OF TAXATION DETERMINED BY THE GOVERNING BODY UNLESS
6 PROHIBITED BY THE CONSTITUTION OF PENNSYLVANIA, ITS HOME RULE
7 CHARTER, OR THE PROVISIONS OF THIS SUBSECTION.

8 (1) SUCH MUNICIPALITY IS DENIED ANY POWER AND AUTHORITY TO
9 FIX A SUBJECT OF TAXATION OR IMPOSE A TAX UNLESS SUCH POWER AND
10 AUTHORITY HAS BEEN GRANTED BY THE GENERAL ASSEMBLY TO THE CLASS
11 OF MUNICIPALITY OF WHICH IT WOULD BE A MEMBER BUT FOR THE
12 ADOPTION OF A HOME RULE CHARTER.

13 (2) SUCH MUNICIPALITY SHALL NOT ESTABLISH OR LEVY A RATE OF
14 TAXATION UPON NONRESIDENTS WHICH IS GREATER THAN THE RATE WHICH
15 THE MUNICIPALITY WOULD HAVE BEEN AUTHORIZED TO LEVY ON
16 NONRESIDENTS BUT FOR THE ADOPTION OF A HOME RULE CHARTER. NO
17 LIMITATION ON RATE OF TAXATION SHALL APPLY TO RESIDENTS AS
18 DETERMINED BY THE GOVERNING BODY.

19 (3) NO MUNICIPALITY SHALL ASSESS THE VALUE OF REAL OR
20 PERSONAL PROPERTY OR ASSESS PERSONS FOR TAXATION PURPOSES UNLESS
21 AUTHORIZED BY AN ACT OF THE GENERAL ASSEMBLY WHICH APPLIES TO
22 THE CLASS OF MUNICIPALITY OF WHICH IT WOULD BE A MEMBER BUT FOR
23 THE ADOPTION OF A HOME RULE CHARTER.

24 (B) NO MUNICIPALITY SHALL (I) ENGAGE IN ANY PROPRIETARY OR
25 PRIVATE BUSINESS EXCEPT AS AUTHORIZED BY THE GENERAL ASSEMBLY,
26 (II) EXERCISE POWERS CONTRARY TO, OR IN LIMITATION OR
27 ENLARGEMENT OF POWERS GRANTED BY ACTS OF THE GENERAL ASSEMBLY
28 WHICH ARE [APPLICABLE IN EVERY PART OF THE COMMONWEALTH] UNIFORM
29 ACTS, (III) BE GIVEN THE POWER TO DIMINISH THE RIGHTS OR
30 PRIVILEGES OF ANY FORMER MUNICIPAL EMPLOYEE ENTITLED TO BENEFITS

1 OR ANY PRESENT MUNICIPAL EMPLOYE IN HIS PENSION OR RETIREMENT
2 SYSTEM, (IV) ENACT OR PROMULGATE ANY ORDINANCE OR REGULATION
3 WITH RESPECT TO DEFINITIONS, SANITATION, SAFETY, HEALTH,
4 STANDARDS OF IDENTITY OR LABELING PERTAINING TO THE MANUFACTURE,
5 PROCESSING, STORAGE, DISTRIBUTION AND SALE OF ANY FOODS, GOODS
6 OR SERVICES SUBJECT TO ANY COMMONWEALTH LAWS OR REGULATIONS
7 UNLESS SUCH MUNICIPAL ORDINANCE OR REGULATION IS UNIFORM IN ALL
8 RESPECTS WITH SUCH COMMONWEALTH LAWS AND REGULATIONS. NOTHING
9 HEREIN CONTAINED SHALL BE CONSTRUED TO IN ANY WAY AFFECT THE
10 POWER OF ANY MUNICIPALITY TO ENACT AND ENFORCE ORDINANCES
11 RELATING TO BUILDING CODES OR ANY OTHER SAFETY, SANITATION OR
12 HEALTH REGULATION PERTAINING THERETO, NOR (V) ENACT ANY
13 PROVISION INCONSISTENT WITH ANY STATUTE HERETOFORE ENACTED BY
14 THE GENERAL ASSEMBLY AFFECTING THE RIGHTS, BENEFITS OR WORKING
15 CONDITIONS OF ANY EMPLOYE OF A POLITICAL SUBDIVISION OF THE
16 COMMONWEALTH.

17 (C) ACTS OF THE GENERAL ASSEMBLY IN EFFECT ON THE EFFECTIVE
18 DATE OF THIS ACT THAT ARE UNIFORM [AND APPLICABLE THROUGHOUT THE
19 COMMONWEALTH] ACTS SHALL REMAIN IN EFFECT AND SHALL NOT BE
20 CHANGED OR MODIFIED BY THIS ACT. ACTS OF THE GENERAL ASSEMBLY
21 ENACTED AFTER THE EFFECTIVE DATE OF THIS ACT THAT ARE UNIFORM
22 [AND APPLICABLE THROUGHOUT THE COMMONWEALTH] ACTS SHALL
23 SUPERSEDE ANY MUNICIPAL ORDINANCE OR RESOLUTION ON THE SAME
24 SUBJECT.

25 (D) NO MUNICIPALITY WHICH ADOPTS A HOME RULE CHARTER SHALL
26 AT ANY TIME THEREUNDER DETERMINE DUTIES, RESPONSIBILITIES OR
27 REQUIREMENTS PLACED UPON BUSINESSES, OCCUPATIONS AND EMPLOYERS,
28 INCLUDING THE DUTY TO WITHHOLD, REMIT OR REPORT TAXES OR
29 PENALTIES LEVIED OR IMPOSED UPON THEM OR UPON PERSONS IN THEIR
30 EMPLOYMENT, EXCEPT AS EXPRESSLY PROVIDED BY ACTS OF THE GENERAL

1 ASSEMBLY, WHICH ARE [APPLICABLE IN EVERY PART OF THE
2 COMMONWEALTH OR WHICH ARE APPLICABLE TO ALL MUNICIPALITIES OR TO
3 A CLASS OR CLASSES OF MUNICIPALITIES] UNIFORM ACTS: PROVIDED,
4 HOWEVER, THAT THIS SUBSECTION SHALL NOT BE CONSTRUED AS A
5 LIMITATION IN FIXING PERMISSIBLE SUBJECTS AND RATES OF TAXATION.

6 (E) NO MUNICIPALITY SHALL ENACT ANY ORDINANCE OR TAKE ANY
7 OTHER ACTION DEALING WITH THE REGULATION OF THE TRANSFER,
8 OWNERSHIP, TRANSPORTATION OR POSSESSION OF FIREARMS.

9 (F) NOTHING CONTAINED HEREIN SHALL LIMIT OR TAKE AWAY ANY
10 RIGHT OF A MUNICIPALITY WHICH ADOPTS A HOME RULE CHARTER FROM
11 LEVYING ANY TAX WHICH IT HAD THE POWER TO LEVY HAD IT NOT
12 ADOPTED A HOME RULE CHARTER.

13 SECTION 3. SECTION 8 OF THE ACT OF DECEMBER 31, 1965
14 (P.L.1257, NO.511), KNOWN AS THE LOCAL TAX ENABLING ACT, IS
15 REPEALED INSOFAR AS IT RELATES TO LIMITATIONS ON RATES OF TAXES
16 IMPOSED ON RESIDENTS OF HOME RULE MUNICIPALITIES.

17 SECTION 4. THIS ACT SHALL BE RETROACTIVE TO APRIL 13, 1972.

18 SECTION 5. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.