

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1600 Session of
1996

INTRODUCED BY HART, FISHER AND WAGNER, JUNE 13, 1996

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 27, 1996

AN ACT

1 Amending the act of May 12, 1911 (P.L.295, No.187), entitled "A
2 supplement to an act, entitled 'An act for the government of
3 cities of the second class,' approved the seventh day of
4 March, Anno Domini one thousand nine hundred and one;
5 providing for the levy, collection, and disbursement of taxes
6 and water-rents, or rates, and conferring certain powers and
7 duties in reference thereto upon the city treasurer, the
8 board of water assessors, and the collector of delinquent
9 taxes; and repealing certain acts relating to matters herein
10 provided for," further providing for a restriction on taxing
11 power; PROVIDING FOR LAND USE APPEALS; FURTHER PROVIDING FOR
12 REMOVAL OF ARCHAIC LAWS; and making repeals. <—

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 2 of the act of May 12, 1911 (P.L.295,
16 No.187), entitled "A supplement to an act, entitled 'An act for
17 the government of cities of the second class,' approved the
18 seventh day of March, Anno Domini one thousand nine hundred and
19 one; providing for the levy, collection, and disbursement of
20 taxes and water-rents, or rates, and conferring certain powers
21 and duties in reference thereto upon the city treasurer, the
22 board of water assessors, and the collector of delinquent taxes;

1 and repealing certain acts relating to matters herein provided
2 for," is amended to read:

3 Section 2. (a) The councils of said cities of the second
4 class shall be, and they are hereby, authorized, empowered, and
5 directed to fix the amounts of money which will be required to
6 defray all the various expenses necessary for conducting the
7 various departments, and also to fix the amounts of money
8 necessary for the payment of the interest and principal upon the
9 indebtedness of said cities, and the separate indebtedness of
10 any portion or division thereof, and for all other municipal
11 purposes; and said councils are hereby authorized, empowered,
12 and directed, annually, to cause a tax sufficient for all of
13 said purposes to be levied and collected out of the estate, real
14 and personal, subject to taxation within said cities.

15 (b) A city of the second class shall have no power to
16 impose, levy or collect a business privilege tax, mercantile
17 license tax or any tax on or measured by gross receipts of any
18 regulated financial services institution. A regulated financial
19 services institution is:

20 (1) an entity that is registered as a broker/dealer under
21 the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. §
22 78a et seq.) or the act of December 5, 1972 (P.L.1280, No.284),
23 known as the "Pennsylvania Securities Act of 1972"; or

24 (2) an entity that is affiliated with a broker/dealer
25 described in clause (1) to the extent that the entity provides
26 investment fund-related management or administrative services.

27 Administrative services include fund administration and
28 compliance services; transfer agency services; shareholder
29 services; custodial services; clearing services; fund, portfolio
30 and participant accounting services; and computer processing,

1 programming, systems development and maintenance and other
2 systems-related and consulting services. Management services
3 include fund asset management and investment advisory services.
4 Investment funds include investment companies, registered under
5 the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. §
6 80a-1 et seq.); individually managed investment portfolios; and
7 assets maintained under employee welfare or benefit plans,
8 whether or not such plans are qualified under the Internal
9 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).
10 An entity is affiliated with a broker/dealer if the entity is,
11 directly or indirectly, in control of, controlled by or under
12 common control with the broker/dealer. Control shall mean
13 ownership greater than fifty per centum.

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

15 SECTION 9. (A) THE PROCEDURE SET FORTH IN THIS SECTION
16 SHALL, NOTWITHSTANDING ANY OTHER PROVISION OF LAW, CONSTITUTE
17 THE EXCLUSIVE MODE FOR SECURING REVIEW OF ANY LAND USE DECISION
18 RENDERED PURSUANT TO THIS ACT, THE ACT OF MARCH 31, 1927
19 (P.L.98, NO.69), REFERRED TO AS THE SECOND CLASS CITY ZONING
20 LAW, OR A LOCAL ORDINANCE.

21 (B) ALL APPEALS FROM ALL LAND USE DECISIONS RENDERED
22 PURSUANT TO THIS ACT, THE ACT OF MARCH 31, 1927 (P.L.98, NO.69),
23 REFERRED TO AS THE SECOND CLASS CITY ZONING LAW OR A LOCAL
24 ORDINANCE SHALL BE TAKEN TO THE COURT OF COMMON PLEAS OF THE
25 JUDICIAL DISTRICT WHEREIN THE LAND IS LOCATED AND SHALL BE FILED
26 WITHIN THIRTY DAYS AFTER ENTRY OF THE DECISION AS PROVIDED IN 42
27 PA.C.S. § 5572 (RELATING TO TIME OF ENTRY).

28 (C) LAND USE APPEALS SHALL BE ENTERED, AS OF COURSE, BY THE
29 PROTHONOTARY OR CLERK UPON THE FILING OF A LAND USE APPEAL
30 NOTICE WHICH CONCISELY SETS FORTH THE GROUNDS ON WHICH THE

1 APPELLANT RELIES. THE APPEAL NOTICE NEED NOT BE VERIFIED. THE
2 LAND USE APPEAL NOTICE SHALL BE ACCOMPANIED BY A TRUE COPY
3 THEREOF.

4 (D) UPON FILING OF A LAND USE APPEAL, THE PROTHONOTARY OR
5 CLERK SHALL FORTHWITH, AS OF COURSE, SEND TO THE GOVERNING BODY,
6 BOARD OR AGENCY WHOSE DECISION OR ACTION HAS BEEN APPEALED, BY
7 REGISTERED MAIL, THE COPY OF THE LAND USE APPEAL NOTICE,
8 TOGETHER WITH A WRIT OF CERTIORARI COMMANDING SAID GOVERNING
9 BODY, BOARD OR AGENCY, WITHIN TWENTY DAYS AFTER RECEIPT THEREOF,
10 TO CERTIFY TO THE COURT ITS ENTIRE RECORD IN THE MATTER IN WHICH
11 THE LAND USE APPEAL HAS BEEN TAKEN, OR A TRUE AND COMPLETE COPY
12 THEREOF, INCLUDING ANY TRANSCRIPT OF TESTIMONY IN EXISTENCE AND
13 AVAILABLE TO THE GOVERNING BODY, BOARD OR AGENCY AT THE TIME IT
14 RECEIVED THE WRIT OF CERTIORARI.

15 (E) IF THE APPELLANT IS A PERSON OTHER THAN THE LANDOWNER OF
16 THE LAND DIRECTLY INVOLVED IN THE DECISION OR ACTION APPEALED
17 FROM, THE APPELLANT, WITHIN SEVEN DAYS AFTER THE LAND USE APPEAL
18 IS FILED, SHALL SERVE A TRUE COPY OF THE LAND USE APPEAL NOTICE
19 BY MAILING SAID NOTICE TO THE LANDOWNER OR HIS ATTORNEY AT HIS
20 LAST KNOWN ADDRESS. FOR IDENTIFICATION OF SUCH LANDOWNER, THE
21 APPELLANT MAY RELY UPON THE RECORD OF THE MUNICIPALITY AND, IN
22 THE EVENT OF GOOD FAITH MISTAKES AS TO SUCH IDENTITY, MAY MAKE
23 SUCH SERVICE NUNC PRO TUNC BY LEAVE OF COURT.

24 (F) EXCEPT IN THE EVENT OF AN APPEAL BY THE MUNICIPALITY,
25 THE FILING OF AN APPEAL IN COURT UNDER THIS ARTICLE SHALL NOT
26 STAY THE ACTION APPEALED FROM, BUT THE APPELLANT MAY PETITION
27 THE COURT HAVING JURISDICTION OF LAND USE APPEALS FOR A STAY. IF
28 THE APPELLANT IS A PERSON WHO IS SEEKING TO PREVENT A USE OR
29 DEVELOPMENT OF THE LAND OF ANOTHER, WHETHER OR NOT A STAY IS
30 SOUGHT BY HIM, THE LANDOWNER WHOSE USE OR DEVELOPMENT IS IN

1 QUESTION MAY, EXCEPT IN THE EVENT OF AN APPEAL BY THE
2 MUNICIPALITY, PETITION THE COURT TO ORDER THE APPELLANT TO POST
3 BOND AS A CONDITION TO PROCEEDING WITH THE APPEAL. AFTER THE
4 PETITION FOR POSTING A BOND IS PRESENTED, THE COURT SHALL HOLD A
5 HEARING TO DETERMINE IF THE FILING OF THE APPEAL IS FRIVOLOUS.
6 AT THE HEARING, EVIDENCE MAY BE PRESENTED ON THE MERITS OF THE
7 CASE. IT SHALL BE THE BURDEN OF THE LANDOWNER TO PROVE THE
8 APPEAL IS FRIVOLOUS. AFTER CONSIDERATION OF ALL EVIDENCE
9 PRESENTED, IF THE COURT DETERMINES THAT THE APPEAL IS FRIVOLOUS,
10 IT SHALL GRANT THE PETITION FOR POSTING A BOND. THE MUNICIPALITY
11 SHALL NOT BE REQUIRED TO POST A BOND. THE RIGHT TO PETITION THE
12 COURT TO ORDER THE APPELLANT TO POST BOND MAY BE WAIVED BY THE
13 APPELLEE, BUT SUCH WAIVER MAY BE REVOKED BY HIM IF AN APPEAL IS
14 TAKEN FROM A FINAL DECISION OF THE COURT. THE AMOUNT OF THE BOND
15 SHALL BE NO MORE THAN TWO THOUSAND DOLLARS. AN ORDER DENYING A
16 PETITION FOR BOND SHALL BE INTERLOCUTORY. AN ORDER DIRECTING THE
17 RESPONDENT TO THE PETITION FOR POSTING A BOND TO POST A BOND
18 SHALL BE INTERLOCUTORY. IF AN APPEAL IS TAKEN BY A RESPONDENT TO
19 THE PETITION FOR POSTING A BOND FROM AN ORDER OF THE COURT
20 DISMISSING A LAND USE APPEAL FOR REFUSAL TO POST A BOND, SUCH
21 RESPONDING PARTY, UPON MOTION OF PETITIONER AND AFTER HEARING IN
22 THE COURT HAVING JURISDICTION OF LAND USE APPEALS, SHALL BE
23 LIABLE FOR ALL REASONABLE COSTS, EXPENSES AND ATTORNEY FEES
24 INCURRED BY PETITIONER.

25 (G) WITHIN THE THIRTY DAYS FIRST FOLLOWING NOTICE TO THE
26 CITY SOLICITOR OF THE FILING OF A LAND USE APPEAL, IF THE APPEAL
27 IS FROM A BOARD OR AGENCY OF A MUNICIPALITY, THE MUNICIPALITY
28 AND ANY OWNER OR TENANT OF PROPERTY DIRECTLY INVOLVED IN THE
29 ACTION APPEALED FROM MAY INTERVENE AS OF COURSE BY FILING A
30 NOTICE OF INTERVENTION, ACCOMPANIED BY PROOF OF SERVICE OF THE

1 SAME, UPON EACH APPELLANT OR EACH APPELLANT'S COUNSEL OF RECORD.
2 ALL OTHER INTERVENTION SHALL BE GOVERNED BY THE PENNSYLVANIA
3 RULES OF CIVIL PROCEDURE.

4 SECTION 3. THE CITY LEGAL DEPARTMENT SHALL REVIEW ALL LAWS
5 RELATING TO CITIES OF THE SECOND CLASS. THE CITY SHALL REPORT
6 THE FINDINGS OF ITS REVIEW WITHIN SIX MONTHS OF THE EFFECTIVE
7 DATE OF THIS SECTION TO THE LOCAL GOVERNMENT COMMISSION AND THE
8 CHAIRMAN AND MINORITY CHAIRMAN OF THE URBAN AFFAIRS COMMITTEE OF
9 THE HOUSE OF REPRESENTATIVES, WHO SHALL DRAFT AND INTRODUCE
10 LEGISLATION TO BE ENACTED REMOVING ANY OUTDATED OR IRRELEVANT
11 PORTIONS.

12 Section ~~2~~ 4. (a) The act of December 31, 1965 (P.L.1257, <—
13 No.511), known as The Local Tax Enabling Act, is repealed
14 insofar as it is inconsistent with this act.

15 (b) All other acts and parts of acts are repealed insofar as
16 they are inconsistent with this act.

17 Section ~~3~~ 5. This act shall take effect on January 1, 1997. <—