

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 2189 Session of  
2003

INTRODUCED BY ROSS, ARMSTRONG, BALDWIN, BARD, BARRAR, BUNT,  
CAPPELLI, CORRIGAN, COY, CRAHALLA, CURRY, FREEMAN, GODSHALL,  
HARPER, HENNESSEY, KELLER, LEACH, LEVDANSKY, MUSTIO, O'NEILL,  
PETRI, RUBLEY, SCAVELLO, SCHRODER, E. Z. TAYLOR, VANCE,  
WALKO, WATSON, WEBER AND YOUNGBLOOD, NOVEMBER 24, 2003

AS RE-REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF  
REPRESENTATIVES, AS AMENDED, NOVEMBER 10, 2004

## AN ACT

1 Amending the act of January 19, 1968 (1967 P.L.992, No.442),  
2 entitled, as amended, "An act authorizing the Commonwealth of  
3 Pennsylvania and the local government units thereof to  
4 preserve, acquire or hold land for open space uses," further  
5 providing for local taxing options; and providing for land  
6 trusts.

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

9 Section 1. Section 7.1 of the act of January 19, 1968 (1967  
10 P.L.992, No.442), entitled "An act authorizing the Commonwealth  
11 of Pennsylvania and the local government units thereof to  
12 preserve, acquire or hold land for open space uses," added  
13 December 18, 1996 (P.L.994, No.153), is amended to read:

14 Section 7.1. Local Taxing Options.--(a) A local government  
15 unit, excluding counties and county authorities, may by  
16 ordinance impose, in addition to the statutory rate limits on  
17 real estate taxes set forth in the municipal code of that local  
18 government unit, a tax on real property not exceeding the

1 millage authorized by referendum under this subsection. In the  
2 alternative, a local government unit, excluding counties and  
3 county authorities, may by ordinance impose, in addition to the  
4 earned income tax rate limit set forth in the act of December  
5 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling  
6 Act," a tax on the earned income of the residents of that local  
7 government unit not exceeding the rate authorized by referendum  
8 under this subsection. Revenue from the levy shall be used to  
9 retire the indebtedness incurred in purchasing interests in real  
10 property or in making additional acquisitions of real property  
11 for the purpose of securing an open space benefit or benefits  
12 under the provisions of this act or the act of June 30, 1981  
13 (P.L.128, No.43), known as the "Agricultural Area Security Law."  
14 Revenue from the levy may also be used for expenses related to  
15 acquisitions made in accordance with this act, including, but  
16 not limited to, costs of appraisals, legal services, title  
17 searches, document preparation, title insurance, closing fees  
18 and survey costs. The local taxing option authorized by this  
19 subsection shall not be exercised unless the governing body of  
20 the local government unit shall by ordinance first provide for a  
21 referendum on the question of the imposition at a specific rate  
22 of the additional tax to be imposed and a majority of those  
23 voting on the referendum question vote in favor of the  
24 imposition of the tax. The ordinance of the governing board of  
25 the local government unit providing for a referendum on the  
26 question shall be filed with the county board of elections. The  
27 referendum shall be governed by the provisions of the act of  
28 June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania  
29 Election Code." The election official shall cause the question  
30 to be submitted to the electors of the local government unit at

1 the next primary, general or municipal election occurring not  
2 less than the thirteenth Tuesday following the filing of the  
3 ordinance with the county board of elections. At such election,  
4 the question shall be submitted to the voters in the same manner  
5 as other questions are submitted under the provisions of the  
6 "Pennsylvania Election Code." The question to be placed upon the  
7 ballot shall be framed in the following form:

8           Do you favor the imposition of a (describe tax in millage  
9           or rate) by (local government unit) to be used to  
10          (purpose)?

11       (b) The board of directors of a school district may by  
12 resolution exempt the following real property from further  
13 millage increases imposed on real property:

14       (1) those whose open space property interests have been  
15 acquired by a local government unit under this act;

16       (2) real property which is subject to an easement acquired  
17 under the act of June 30, 1981 (P.L.128, No.43), known as the  
18 "Agricultural Area Security Law"; and

19       (3) real property whose TDRs have been transferred and  
20 retired by a local government unit without their development  
21 potential having occurred on other lands; provided that the  
22 exemption from further millage increases for real property as  
23 provided for in clause (1), (2) or (3) of this subsection shall  
24 be authorized only for real property qualifying for such  
25 exemption under the provisions of section 2(b)(1) of Article  
26 VIII of the Constitution of Pennsylvania. If the board so  
27 resolves, the millage freeze authorized herein shall apply to  
28 all eligible real property, whether the real property met the  
29 criteria of this subsection prior to or subsequent to the date  
30 of the resolution imposing the millage freeze. For prior

1 acquisitions, the date on which the millage rate shall be frozen  
2 is the date of the resolution. For subsequent acquisitions, the  
3 date on which the millage rate shall be frozen is the date the  
4 local government unit completes the acquisition. The school  
5 district shall give prompt notice to the appropriate tax  
6 collection agent of the exact amount of the millage, the date it  
7 was frozen and each parcel to which the freeze applies. The  
8 exemptions granted under this act shall not be considered by the  
9 State Tax Equalization Board in deriving the market value of  
10 school district real property so as to reduce the subsidy to  
11 that school district or to increase the subsidy to any other  
12 school district.

13 Section 2. The act is amended by adding a section to read:

14 ~~Section 11.1. Land Trusts. (a) If the governing body of a~~ <—  
15 ~~local government unit, excluding county authorities, deems it to~~  
16 ~~be for the public benefit of the local government unit, it may~~  
17 ~~appropriate money to a land trust for the acquisition or~~  
18 ~~conservation and preservation of interests in real property for~~  
19 ~~the purpose of achieving open space benefits.~~

20 ~~(b) A local government unit, excluding county authorities,~~  
21 ~~shall have the power to create a local land trust by~~  
22 ~~incorporating a nonprofit corporation under 15 Pa.C.S. Pt. II~~  
23 ~~Subpt. C Article B (relating to domestic nonprofit corporations~~  
24 ~~generally). Whenever the governing body of a local government~~  
25 ~~unit, excluding county authorities, desires to create a local~~  
26 ~~land trust under this section, it shall adopt an ordinance~~  
27 ~~signifying its intention to do so.~~

28 ~~(c) Notwithstanding any other provision of this act, and in~~  
29 ~~addition to other powers granted under this act, a local~~  
30 ~~government unit that creates a local land trust shall have the~~

~~powers:~~

~~(1) to make appropriations of money, including revenues raised by a tax imposed under section 7.1, to a local land trust created by the local government unit for the acquisition or conservation and preservation of interests in real property for the purpose of achieving open space benefits within the local government unit; and~~

~~(2) to transfer open space property interests to a local land trust created by the local government unit.~~

~~(d) Money appropriated to a land trust or a local land trust under this section may be used for related expenses.~~

~~(c) As used in this section:~~

~~(1) "Land trust." A nonprofit organization that is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)), is registered with the Pennsylvania Commission on Charitable Organizations, and which has among its primary purposes the acquisition or conservation and preservation of interests in real property for the purpose of achieving open space benefits.~~

~~(2) "Local government unit." A local government unit as defined in section 2(5), excluding county authorities.~~

~~(3) "Related expenses." Incidental expenses incurred by land trust in the acquisition or conservation and preservation of interests in real property for the purpose of achieving open space benefits, including, but not limited to, costs of appraisals, legal services, title searches, document preparation, title insurance, closing fees and survey costs.~~

~~SECTION 11.1. LAND TRUSTS.--(A) IF THE GOVERNING BODY OF A LOCAL GOVERNMENT UNIT, EXCLUDING COUNTY AUTHORITIES, DEEMS IT TO BE FOR THE PUBLIC BENEFIT OF THE LOCAL GOVERNMENT UNIT, IT MAY:~~

<—

1     (1) APPROPRIATE MONEY TO A LAND TRUST OR A LOCAL LAND TRUST  
2 FOR THE ACQUISITION OR CONSERVATION AND PRESERVATION OF  
3 INTERESTS IN REAL PROPERTY FOR THE PURPOSE OF ACHIEVING OPEN  
4 SPACE BENEFITS; AND

5     (2) TRANSFER OPEN SPACE PROPERTY INTERESTS TO A LAND TRUST  
6 OR LOCAL LAND TRUST AND MAY ELECT TO ACCEPT ANY NOMINAL  
7 CONSIDERATION FOR THE TRANSFER IT BELIEVES APPROPRIATE.

8     (B) A LOCAL GOVERNMENT UNIT, EXCLUDING COUNTY AUTHORITIES,  
9 SHALL HAVE THE POWER TO CREATE A LOCAL LAND TRUST. WHENEVER THE  
10 GOVERNING BODY OF A LOCAL GOVERNMENT UNIT, EXCLUDING COUNTY  
11 AUTHORITIES, DESIRES TO CREATE A LOCAL LAND TRUST UNDER THIS  
12 SECTION, IT SHALL ADOPT AN ORDINANCE SIGNIFYING ITS INTENTION TO  
13 DO SO.

14     (C) MONEY APPROPRIATED TO A LAND TRUST OR A LOCAL LAND TRUST  
15 UNDER THIS SECTION MAY BE USED FOR RELATED EXPENSES.

16     (D) AS USED IN THIS SECTION:

17     (1) "LAND TRUST." A NONPROFIT ORGANIZATION THAT IS TAX  
18 EXEMPT UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE OF  
19 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 501(C)(3)), IS REGISTERED  
20 WITH THE PENNSYLVANIA COMMISSION ON CHARITABLE ORGANIZATIONS,  
21 AND WHICH HAS AMONG ITS PRIMARY PURPOSES THE ACQUISITION OR  
22 CONSERVATION AND PRESERVATION OF INTERESTS IN REAL PROPERTY FOR  
23 THE PURPOSE OF ACHIEVING OPEN SPACE BENEFITS.

24     (2) "LOCAL GOVERNMENT UNIT." A LOCAL GOVERNMENT UNIT AS  
25 DEFINED IN SECTION 2(5), EXCLUDING COUNTY AUTHORITIES.

26     (3) "LOCAL LAND TRUST." A LAND TRUST INCORPORATED BY A  
27 LOCAL GOVERNMENT UNIT, EXCLUDING COUNTY AUTHORITIES, AS A  
28 NONPROFIT CORPORATION UNDER 15 PA.C.S. PT. II SUBPT. C ART. B  
29 (RELATING TO DOMESTIC NONPROFIT CORPORATIONS GENERALLY).

30     (4) "RELATED EXPENSES." INCIDENTAL EXPENSES INCURRED BY

1 LAND TRUST IN THE ACQUISITION OR CONSERVATION AND PRESERVATION  
2 OF INTERESTS IN REAL PROPERTY FOR THE PURPOSE OF ACHIEVING OPEN  
3 SPACE BENEFITS, INCLUDING, BUT NOT LIMITED TO, COSTS OF  
4 APPRAISALS, LEGAL SERVICES, TITLE SEARCHES, DOCUMENT  
5 PREPARATION, TITLE INSURANCE, CLOSING FEES AND SURVEY COSTS.

6       Section 3. This act shall take effect in 60 days.