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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 1201** Session of  
2004

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INTRODUCED BY MOWERY, LOGAN, FERLO, TOMLINSON, WONDERLING,  
PILEGGI, RAFFERTY, KITCHEN AND M. WHITE, JULY 4, 2004

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AS AMENDED ON THIRD CONSIDERATION, OCTOBER 6, 2004

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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,  
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. Council may reject any bids  
11 received if the bids are believed to be less than the fair  
12 market value of the property. Council shall, by resolution,  
13 adopt a procedure for the sale of surplus personal property,  
14 either individual items or lots of items, of an estimated fair  
15 market value of less than one thousand dollars (\$1,000) and the  
16 approval of council shall not be required for any individual  
17 sale that shall be made in conformity to such procedure.

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

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

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

29 (B) a municipal authority pursuant to the Municipality  
30 Authorities Act of 1945;

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

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

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

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

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

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

20 (I) where real property is to be sold to a non-profit museum  
21 or historical society FOR ITS EXCLUSIVE USE AS A NON-PROFIT ←  
22 MUSEUM 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.