

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 983

Session of
2007

INTRODUCED BY STEIL, FREEMAN, HENNESSEY, HERSHEY, KORTZ, PETRI,
RUBLEY, SOLOBAY, VEREB, THOMAS AND SIPTROTH, APRIL 2, 2007

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 19, 2007

AN ACT

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

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

9 Section 1. Section 5(c) of the act of January 19, 1967
10 (1968, P.L.922, No.442), entitled "An act authorizing the
11 Commonwealth of Pennsylvania and the local government units
12 thereof to preserve, acquire or hold land for open space uses,"
13 amended December 18, 1996 (P.L.994, No.153), is amended to read:

14 Section 5. Acquisition of Interests in Real Property.--* * *

15 (c) (1) A local government unit may acquire any interest in
16 real property situate within its boundaries by purchase,
17 contract, [condemnation, gift, devise or otherwise] gift or
18 devise, for any of the purposes set forth in clauses [(1)
19 through (8) of subsection (a) of this section, and may acquire

1 any interest in real property situate within its boundaries by
2 purchase, contract, gift or devise, for any of the purposes set
3 forth in clause (1) of subsection (b) of this section, including
4 limiting the use of real property to achieve open space benefits
5 by reselling real property acquired in fee simple, subject to
6 restrictive covenants or easements limiting the use thereof for
7 the purposes set forth in clauses (1) through (7) of subsection
8 (a) and clause (1) of subsection (b) of this section.] (1)
9 through (7) of subsection (a) and clause (1) of subsection (b),
10 or may limit the use of real property to achieve open space
11 benefits by reselling real property acquired in fee simple,
12 subject to restrictive covenants or easements limiting the use
13 thereof for those purposes.

14 (1.1) A county or county authority may also acquire any
15 interest in real property situate within its boundaries by
16 condemnation for any of the purposes set forth in clauses (1)
17 through (8) of subsection (a) in accordance with section 8 of
18 this act.

19 (2) During the time that real property or any interest in
20 real property acquired by a local government unit for open space
21 purposes in accordance with this act is held by the local
22 government unit, the real property shall be ineligible for the
23 purchase of agricultural conservation easements authorized in
24 the act of June 30, 1981 (P.L.128, No.43), known as the
25 "Agricultural Area Security Law."

26 Section 2. Sections 7 and 7.1 of the act, amended February
27 2, 2006 (P.L.15, No.4), are amended to read:

28 Section 7. Property Acquired in Fee Simple.--If the owner of
29 the interests in real property to be acquired pursuant to the
30 provisions of this act prefers to have the Commonwealth or the

1 local government unit acquire the property in fee simple, the
2 Commonwealth or the local government unit shall be required to
3 acquire the property in fee simple. All real property acquired
4 in fee simple by the Commonwealth, through either the Department
5 of Conservation and Natural Resources or the Department of
6 Agriculture under the provisions of this act, shall be offered
7 for resale publicly in the manner provided by law within two
8 years of the date of acquisition, subject to restrictive
9 covenants or easements limiting the land to such open space uses
10 as may be specified by the designating department or agency in
11 accordance with section 6 hereof, and consistent with the
12 resource, recreation, or land use plan established in accordance
13 with section [4] 3 hereof. [In the case of the Commonwealth,
14 such] Such resales may be made without specific authority of the
15 General Assembly and shall be through the Department of General
16 Services at public sale in the manner provided by law.

17 Section 7.1. Local Taxing Options.--* * *

18 (b) (1) Any of the following categories of real property
19 may be exempted from further millage increases:

20 (i) Real property in which the open space property interests
21 have been acquired by a local government unit in accordance with
22 this act.

23 (ii) Real property that is subject to an easement acquired
24 in accordance with the act of June 30, 1981 (P.L.128, No.43),
25 known as the "Agricultural Area Security Law."

26 (iii) Real property from which TDRs have been transferred
27 and retired by a local government unit without their development
28 potential having occurred on other lands.

29 (2) The exemption from further millage increases authorized
30 by clause (1) shall become effective only if the [governing body

1 of each taxing district that imposes a tax on the real property
2 approves] the respective governing bodies of the county,
3 municipal corporation and school district approve the exemption
4 either by ordinance in the case of a county or municipal
5 corporation or by resolution in the case of a school
6 district[.], and only as long as each ordinance or resolution,
7 as applicable, remains in effect or is not repealed. The
8 ordinance or resolution shall state whether the millage freeze
9 is only to be applied to the general real estate millage or is
10 also to be applied to any other millages imposed by the taxing
11 district. At a minimum the millage freeze shall apply to the
12 taxing districts' general real estate millage.

13 (3) The exemption from further millage increases for real
14 property as provided for in this subsection shall be authorized
15 only for real property qualifying for such exemption under the
16 provisions of section 2(b)(1) of Article VIII of the
17 Constitution of Pennsylvania.

18 (4) If the [governing body of each taxing district so
19 resolves] respective governing bodies of the county, municipal
20 corporation and school district so resolve, the millage freeze
21 authorized herein shall apply to all eligible real property,
22 whether the real property met the criteria of this subsection
23 prior to or subsequent to the date of the ordinances and
24 resolution imposing the millage freeze. For prior acquisitions,
25 the date on which the millage rate shall be frozen is the date
26 that the last of the required ordinances or resolution becomes
27 effective. For subsequent acquisitions, the date on which the
28 millage rate shall be frozen is the date the local government
29 unit completes the acquisition. The governing body of each
30 taxing district shall give prompt notice to the appropriate tax

1 collection agent of the exact amount of the millage, the date it
2 was frozen and each parcel to which the freeze applies.

3 (4.1) The millage freeze shall remain in effect if the
4 property is sold as long as the property continues to meet the
5 requirements of this subsection.

6 (5) The exemptions granted under this act shall not be
7 considered by the State Tax Equalization Board in deriving the
8 market value of school district real property so as to reduce
9 the subsidy to that school district or to increase the subsidy
10 to any other school district.

11 (6) Land currently enrolled in programs pursuant to the act
12 of December 19, 1974 (P.L.973, No.319), known as the
13 "Pennsylvania Farmland and Forest Land Assessment Act of 1974,"
14 shall not be eligible for the millage freeze. Land removed from
15 programs under this act shall be eligible for the tax freeze
16 upon their removal, PROVIDED THAT THE GOVERNING BODIES OF THE <—
17 COUNTY, MUNICIPAL CORPORATION AND SCHOOL DISTRICT APPROVE THE
18 TAX FREEZE EXEMPTION.

19 Section 3. Section 8 of the act, amended December 18, 1996
20 (P.L.944, No.153), is amended to read:

21 Section 8. Exercise of Eminent Domain.--(a) Use of
22 condemnation or the power of eminent domain to acquire interests
23 in real property for the purposes of this act shall be exercised
24 in accordance with the provisions of the Eminent Domain Code of
25 the Commonwealth.

26 (b) Notwithstanding the provisions of subsection (a) [or
27 section 5(c)], local government units other than counties or
28 county authorities may not exercise the power of eminent domain
29 in carrying out the provisions of this act.

30 Section 4. This act shall take effect in 60 days.