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THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 747 Session of 2009

INTRODUCED BY RAFFERTY, GREENLEAF, ALLOWAY, WASHINGTON, O'PAKE, M. WHITE AND FERLO, APRIL 3, 2009

REFERRED TO TRANSPORTATION, APRIL 3, 2009

AN ACT

Authorizing the Department of Transportation to sell land under certain conditions; and repealing certain provisions of The Administrative Code of 1929.

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

Section 1. Short title.

This act shall be known and may be cited as the Sale of Transportation Lands Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Transportation of the Commonwealth.

"Fund." The Motor License Fund.

"Preservation of open space." Includes the following:

(1) Protection and conservation of water resources and watersheds.

(2) Protection and conservation of forests and land being used to produce timber crops.

(3) Protection and conservation of farmland.

(4) Protection of existing or planned park, trail, greenway, recreation or conservation sites.

(5) Protection and conservation of natural or scenic resources, including beaches, streams, flood plains, steep slopes and marshes.

(6) Protection of scenic areas for public visual enjoyment from public rights-of-way.

(7) Preservation of sites of historic, geologic or botanic interest.

(8) Promotion of sound, cohesive and efficient land development by preserving open spaces between communities.

"Public agency." Includes an authority and a political subdivision.

"Secretary." The Secretary of Transportation of the Commonwealth.

Section 3. Sale of land.

(a) Authorization.--Notwithstanding the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, the department, in accordance with appropriations and grants of funds from Federal, State, regional, local or private agencies and subject to subsection (b), in the exercise of its powers and duties, may sell at public sale land acquired by the department if the secretary determines that the land is not needed for present or future transportation purposes.

(b) Conditions.--The following apply to a sale under subsection (a):

(1) If the land is improved, all of the following

subparagraphs apply:

(i) The land must first be offered at its fair market value as determined by the department to other public agencies which demonstrate a public purpose for the land, including the preservation of open space.

(ii) If the land is not transferred to a public agency, all of the following clauses apply:

(A) If the land is occupied by a tenant, the land must be offered to the tenant:

(I) except as set forth in subclause (II), at its fair market value as determined by the department; or

(II) if the tenant is the person from whom the department acquired the land, at the acquisition price, less costs, expenses and reasonable attorney fees incurred by the person as a result of the acquisition of the land by the department.

(B) If the land is not occupied by a tenant and the person from whom the department acquired the land did not receive a replacement housing payment under 26 Pa.C.S. § 903 (relating to replacement housing for homeowners) or under former section 304.3 of the act of June 1, 1945 (P.L.1242, No.428), known as the State Highway Law, the land must first be offered to that person at the acquisition price, less costs, expenses and reasonable attorney fees incurred by the person as a result of the acquisition of the land by the department.

(2) If the land is unimproved, all of the following

subparagraphs apply:

(i) The land must be offered at its fair market value as determined by the department to other public agencies which demonstrate a public purpose for the land, including the preservation of open space.

(ii) If the land is not transferred to a public agency, the following apply:

(A) Except as set forth in clause (B), the land must be offered to the person from whom it was acquired at its acquisition price, less costs, expenses and reasonable attorney fees incurred by the person as a result of the acquisition of the land by the department.

(B) If the land abutting the land to be sold has been conveyed to another person, the land to be sold must be offered to that person at its fair market value as determined by the department.

(3) For an offer under paragraph (1) or (2), all of the following apply:

(i) except as set forth in subparagraph (ii), notice must be sent by certified mail;

(ii) if notice cannot be effected under subparagraph (i), notice must be effected in the manner required for an in rem proceeding; or

(iii) the offeree must have 120 days after receipt of notice to accept the offer in writing.

(c) Proceeds.--Proceeds from a sale of land acquired with money from the fund shall be deposited into the fund.

Section 9. Repeals.

Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate section 3.

(2) Section 2003(e)(7) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is repealed.

Section 10. Effective date.

This act shall take effect in 60 days.